W. TILGHMAN

Ch. Justice of the Supreme Court of Penns.a

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LIFE

OF THE HONOURABLE

WILLIAM TILGHMAN,

LATE CHIEF JUSTICE

OF THE

STATE OF PENNSYLVANIA.

COMPILED

FROM THE EULOGIES OF TWO DISTINGUISHED MEMBERS OF THE PHILADELPHIA BAR,

WHO DELIVERED THEM IN COMMEMORATION OF HIS VIRTUES.

BY JOHN GOLDER, Esq.

PHILADELPHIA:

PRINTED BY THOMAS TOWN, FOR THE AUTHOR.

1829.

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ADVERTISEMENT.

The patient industry and research of the learned

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J. GOLDER.

January 20, 1829.

ADVERTISEMENT.

The patient industry and research of the learned and eloquent eulogists of the late Chief Justice Tilghman, have furnished the compiler of this biography with all the materials necessary for his present instructive undertaking: and although its magnitude has gone so far beyond his first proposal, as to require that it should receive a separate publication, those great facilities to his undertaking, have made his labour both easy and agreeable.

Their brief but comprehensive record of his ancestry, traces its origin to the early period of Henry the Eighth's reign, and portrays the living feature of every incident apt to interest an American reader in the nobility of his origin, or the reputation of his family connections.

For the citizens of the United States have never desired to extend their fame otherwise than by noble deeds; and to secure for their country the good will of every nation by a dignified conduct, and greatness of example, which neither illustrious birth, elevated rank, or great fortune, can ever bestow; "and which even upon the throne, can only be acquired by a life of exemplary virtue, and an anxious attention to the suffrages of posterity."

J. GOLDER.

January 20, 1829.

INTRODUCTION.

The object and chief aim of all science, and indeed of every useful pursuit is to improve mankind in wisdom and goodness; but could man derive the reputation of greatness, from no other earthly source than those surrounding natural objects which are as frail and perishable as himself, there would be no hope that he would devote his life to the cultivation of intellectual possessions, which are the pride and glory of his existence.

Few attain great eminence here, before the hand of death performs its fatal office, and fixes them forever beyond the reach of envy or the emulation of their cotemporaries. And still fewer attain it by any of those superior qualities of the soul which exalt the man, and place him above the ordinary standard of moral worth.

The evils of our nature are often mitigated, if not principally removed, by the customary advantages of social life, but this too, often gives birth to inquietude of mind, which harrow and disturb its being with all

the sad conviction of our imperfections. Truth unfolds its charms in the *retirement of study:* here the great and the good, the pious and the virtuous, have ever been addicted to *serious retirement.*

It is the characteristic of light and trifling minds to be wholly occupied with "the vulgar objects of life." These fill up the measure of their ambition, and furnish all the entertainments their rude apprehensions can relish. But the more refined and enlarged mind leaves the world behind, feels a call for higher pleasures, and seeks them diligently in the shades of retirement.

A retirement, from the world of cares is surely commendable at two periods of life: in the bloom of youth when the understanding is the most ready to acquire the rudiments of useful knowledge, to lay the foundation of the character intended to be formed, and to obtain that train of thought which is to guide and influence our actions; in age, to take a retrospective view of the scenes we have witnessed, to weigh the events we have passed, the vicissitudes we have experienced, to regale ourselves with the flowers we have gathered, to congratulate ourselves with the storms we have survived, and finally to prepare ourselves faithfully to die in peace. The man of public spirit has recourse to it in order to form plans for the general good; the man of genius, that he may contemplate the pleasures of his favourite

theme; the philosopher, to pursue his discoveries, and the christian that he may improve in grace, and hold a sweet communion with his God. And yet the fund of living reputation, which is the reward of study and retirement, is ever exposed to the rude winds of envy and defamation, which nothing shields it from, but the cover of the grave.

He then, who would form the imperishable model of wisdom, genius, and patriotism, must look inquiring to the mansions of the dead: it is there he may contemplate the virtues of its illustrious inhabitants, and raise his affections by great and noble examples of benificence and love to man. Divine wisdom in the gracious expanse of its infinite mercy, has never refused the intelligent creation any possession of social good, which is compatible with our being, and worthy of our enjoyment.

A wide, and at the same time, well organized universe, occupies the extensive sphere allotted to the enjoyment of man, a uniform and undivided council gave it existence, and the same power preserves its dominion: yet but one family compose its inhabitants. The living and the dead, are both subjects of its government; the one forever are guarded and guided by its providence, as the peculiar favourites of its grace, the other lives only in their virtuous reputation.

So that when death does take from us any of the great and good, the dearest ties of our earthly attach-

ments, it does not deprive us of the pure example of their virtues: that is ours by inheritance, death is only the grantor of its possession, and when we are called to commemorate the melancholy transfer, we but pay the debt we owe, and ratify and confirm our inheritance.

LIFE

OF THE HONOURABLE

WILLIAM TILGHMAN,

Late Chief Justice of the State of Pennsylvania.

WILLIAM TILGHMAN was born on the 12th day of August 1756, in Talbot county, on the Eastern shore of Maryland, upon his father's plantation near Easton, which is at present occupied by Col. Richard Tilghman, one of the descendants of the family.

His paternal great grand-father, Richard Tilghman, was a European by birth, who emigrated to the then Province of Maryland, from Kent county England, about the year of our Lord 1662, and settled on the East side of Chester river in Queen Ann's county.

His Father, James Tilghman, was an eminent lawyer in his day; and was particularly known and respected by the profession of Pennsylvania, for the accuracy of his judgment and superiority of his system and method in effecting an arrangement, and business like regularity in the various duties of the Proprietary land office, during the period he officially occupied that interesting department as Secretary, under the Proprietor of Pennsylvania.

He studied law under Tench Francis, Esq. an eminent lawyer in Philadelphia at that time, whose daughter Anne, he afterwards married. Mr. Francis was a brother of Richard Francis, the author of the Maxims in Equity, and also of Dr. Philip Francis, the learned translator of Horace.

It is not surprising to find among the colateral ancestors of the late Chief Justice, the author of one of the earliest compends of scientific equity and an accomplished scholar of the Augustan age.

In the year 176?, Mr. Tilghman removed with his family from the Province of Maryland, when his son William, the subject of this memoir, was but six years of age; and in the succeeding year he was sent to the academy, then under the superintendence and direction of the Rev. Mr. Kinnersly, and in the regular progress of the classes came under the instruction of Mr. Beveridge, from whom he received his foundation in Latin and Greek. At the death of Mr. Beveridge his chair was successively filled by Mr. Wallis, Dr. Davidson and the Rev. Mr. Patterson; William was continued at this school until the year 1769, when he entered the college. Professor Smith, was then Provost, Dr. Francis Allison, Vice Provost, and Mr. Paul Took, teacher of the French language; the Vice Provost instructed the students in the higher Greek and Latin classics. Such was this assiduous pupils devotion to literature during his stay at college, that he had received the Batchellors degree, and was in the ordinary sense prepared for a profession at this

age; but he yet delighted to dwell with the classics, which he read with the advantage of Dr. Allisons prelictions with more than ordinary facility.

At this æra, science had asserted her pretensions to the American soil; and altho' it had been vainly contended in the British Parliament, that this country, so perfectly congenial as it is, to all the advantages of freedom, had no taste for the Arts, and no efficient patrons of the science: "that even the nightingale could not live upon our shores," Pennsylvania put forth her enterprise, and her sage Franklin, succeeded in establishing a public library, which was soon the medium of instituting a society for the promotion of useful knowledge; the college and academy of Philadelphia being then under the direction of distinguished Professors, and in the twelfth year of their existence, flourished beyond the expectation of their patrons, and foiled the hopes of those who opposed them.

In those days no Royal road had been discovered to shorten the rugged path to science. The same course of studies was pursued which had raised Milton, and Newton, Pope, Dryden, Locke, and the numerous host of English worthies, to that eminence which so few now are able to reach. Knowledge was still sought for at the fountain heads, and sufficient time and labour were generally devoted to its pursuit. It is, therefore, no cause of wonder that so many great men appeared and blazed upon us at once, at the period of our revolution.

At the close of the year 1771, Wm. Tilghman's mother died and his father was now growing old, and was left with the charge of a family of ten children. He saw the necessity of losing no time to put his son William in a situation to provide for himself, in case he should lose his remaining parent. This compelled him to abandon the plan of education which he had so wisely begun. He therefore withdrew him from college, and placed him as a student in the office of the late Benjamin Chew, Esq., who was then at the head of the legal profession in this city, and was afterwards the last Chief Justice of the Province under the proprietary government, and President of the High Court of Errors and Appeals under the Commonwealth, in which office he continued until that Court was abolished. An intimate friendship had long subsisted between Mr. Chew and the elder Tilghman, and therefore it must be presumed that he took the greatest care to promote his son's advancement in knowledge, for which no one was better fitted than himself.

William Tilghman remained four years under the tuition of Mr. Chew, assidiously attending to his studies and to the duties of the office. But while he was so engaged, the revolution broke out, and in 1776, the Independence of these States was formally declared. This rendered a change necessary in the arrangements of the family. His father, who stood high in the esteem of the proprietaries, had enjoyed under them an honourable and lucrative office, which

he, of course, lost, when the old government ceased to exist. He was now sixty years old, at the head of a numerous family; he had a valuable estate in Maryland, to which he was obliged to look for support. He therefore, determined to remove again to that colony, now become an independent state, and struggling with the rest for its political existence.

In consequence of this new arrangement, William Tilghman left Mr. Chew's office in December 1776, and proceeded to Maryland, where some of his brothers and sisters had preceded him. From that time until the summer of 1799, he lived in great retirement on an estate of his father's, in Queen Anne's county, called the Forest, which estate, after his father's death came to his share, and continued in his possession until he died. During that period of two years and a half, he pursued with ardour his favourite studies, Jurisprudence, History, and the Belles Letters. In the summer of 1779 he removed to Chester Town, where his father had fixed his residence. And there, until the close of the revolutionary war, in the year 1783, he continued his studies with the same zeal and perseverance as he had done in his former retreat; and during those six years that he spent at the Forest and at Chester Town, he became intimately acquainted with the great writers of Greece and Rome, and acquired that taste for ancient literature, which adhered to him to his last day.

The family of Tilghman, it appears, entertained different opinions on the great question which at that

time divided the mother country from the Colonies. His eldest brother Tench Tilghman, had at an early period taken a decided and active part in favour of the revolution. His military talents were soon distinguished by Washington, who attached him to his person, as his aid-de-camp, in which capacity he remained until the conclusion of the war, after which, like the modern Cincinnatus, he returned to his farm. One of his younger brothers, Philemon, took service in the British navy, and married a daughter of Admiral Milbanke, by whom he had several children, who now reside in England. The others took different parts as their opinions or inclinations led them. Such are the lamentable effects of civil wars.

Another effect of these political storms, which this country for a while severely felt, was that when they brake out, these young men whose education was not finished, were called too soon into active life, and a whole generation did feel the deficiency of the precious instruction which it would otherwise have acquired, and of which the country would have received the benefit. It is, however, happy for a nation, when under such circumstances, some young men are found, who, like Tilghman, leave the helm of State and the brunt of battles, to more ardent and aspiring minds, and prepare themselves in silence to repair in peace, the evils produced by war.

At last the temple of Janus was closed; the pomp and circumstances of war were laid aside, and the American nation sat down to enjoy her dear bought

independence. Tilghman had now entered his twenty-seventh year; he saw that it was time to abandon his beloved retirement, and to act a part on the great theatre of the world. He began the practice of the law, in which he soon became eminent, and the eye of the public from that time was fixed upon him. In this country, public employments follow a man of merit as surely as the shadow follows the substance.

In the year 1788, and for several successive years thereafter, he was elected a member of the house of delegates of Maryland, and afterwards a senator of that state. In the year 1789, he was also proclaimed one of the electors appointed to choose the first President of the United States, under the federal constitution; and about the year 1793, (a few months previous to his marriage with Miss Margaret Allen, the daughter of Mr. Jas. Allen, of Philadelphia, who was a son of the honourable William Allen, who had preceded Mr. Chew in the office of Chief Justice of Pennsylvania,) he removed to this city and assiduously applied himself to the practice of the law; and soon acquired a respectable practice. The bar of Philadelphia was at that time, most justly considered the first in the United States. Wilson indeed had quitted it for a seat on the Supreme Court Bench of the Union, and the elder Seargent had recently fallen a victim to that dreadful fever which will make the year 1793 a memorable era in the annals of Pennsylvania. But Bradford, then attorney general of the United States; Lewis, Dallas, the elder Tilgh-

man, and the elder Ingersol, and others of the old school, not yet extinguished, were still alive in the full display of their brilliant talents. And in addition to these incalculable advantages, Philadelphia was then the seat of the general government, and its courts were resorted to by Ames, Hamilton, Harper, Pringle, and other great men, from the neighbouring and from the most remote States in the Union; and the hall of justice often resounded with the thunder of their eloquence. Such were the competitors, in the midst of whom Mr. Tilghman had to advance. His talents were not of that eloquent cast which distinguished the leading counsel at the bar of Philadelphia. Modest and diffident of his own merit, he could not wholly overcome those feelings, which men of superior minds have so often found in the way of their professional success.

This must be ascribed to the long time that he spent in studious retirement, which, while it added to his stock of knowledge and strengthened his judgment, left him deprived of those advantages which a bold and ready elocution can command. Yet his practice continued respectable. His profound knowledge, his discriminating mind, and his logical acumen, made him a powerful antagonist in those cases where not the passions of a jury, but the discernment of enlightened judges must be applied to. There he felt conscious of his powers, and displayed them to the greatest advantage, and very often with success. He could be eloquent also, when not called upon to display that talent on the spur of the moment.

Thus dividing his time between a profession that he loved, and a wife whom he adored, he enjoyed as much happiness as may be expected to fall to the lot of man; but that happiness, alas! was not to be of long duration. A little more than three years had elapsed from the time of his marriage, when he had the misfortune to lose that wife, on whom he had rested his fondest hopes. She died in the month of December, 1797, leaving behind her a daughter, the only pledge of their mutual affection, who was also, doomed to an untimely fate.

The acuteness of his feelings upon this event, roused him to increased exertion; his talents were displayed with more force than they had been before, and soon became so conspicuous as to point him out to the national, as well as to the state government, as a fit character for the most elevated stations in the judicature of his country. The opportunity soon offered to place him in a situation worthy of himself.

Congress having thought proper to establish a new organization of the Circuit Courts of the United States, Mr. Tilghman was appointed by President John Adams, on the 3d of March, 1801, presiding Judge of the third circuit, which consisted of Eastern and Western Pennsylvania, and the states of New Jersey and Delaware. His associates were Mr. Griffith, of New Jersey, a lawyer of great eminence, and Mr. Bassett, of Delaware. He was in this manner placed at the head of the federal judiciary of three States; but did not remain long in that situation, as in the

year following, the system was again altered, and the new courts abolished. This last change is still lamented by many well wishers to the good government of this country.

Under that arrangement two circuit courts only were held in the city of Philadelphia, the part of his circuit where arose the causes of the greatest importance. There, he began to display those judicial talents for which he has become so justly celebrated. On the dissolution of the court, he was seen to descend from the bench with universal regret.

Still modest and unassuming, he at once returned to the exercise of his profession. But he had not long to continue in it. On the resignation of Judge Coxe, in the year 1805, he was appointed by Governor M'Kean, President of the several courts of the first judicial circuit of this State, which then consisted of the city and county of Philadelphia, and of the counties of Bucks, Montgomery, and Delaware. And this was only a step to a more elevated seat.

About the close of the same year, the office of Chief Justice of this commonwealth became vacant, by the resignation of the venerable Edward Shippen, a few months before his lamented death. The appointment of a successor to that great and good man was become an object of the most serious consideration. Party spirit was then high in Pennsylvania. There were men at that time who sought popularity by exciting the people against the judiciary order. The bar was the principal object of their animadversions, and

lawyers were the butt of their constant invective. Nothing less was talked of than their entire destruction. The spirit, strange as it may seem, had found its way into the Legislature, who in the beginning of 1806, passed two celebrated laws, the object of which was to enable parties to manage their causes, without the aid of attornies or counsel. By one of them, the forms of judicial proceedings were altered with that special view; by the other, a compulsory mode of trial by arbitration was established. These acts are still in force; but their effect has not been such as was expected from them.

Under those circumstances, it became of the highest importance to place a proper person at the head of the judiciary of Pennsylvania. Governor M'Kean, than whom there was not a better judge of merit; found in Mr. Tilghman, a man profoundly versed in the laws of his country, a man of firmness of character, and at the same time of a mild and conciliating disposition, and he made choice of him for that high station. His choice was justified by the fortunate event. The prejudice against the law and lawyers which had risen to such an alarming height, gradually subsided, and every thing soon returned to its usual channel. That temporary effervescence is now almost entirely forgotten.

Mr. Tilghman was appointed to the office of Chief Justice, on the 26th of February, 1806, and held it during the space of twenty-one years, to the time of his death. It was before that appointment, and while

he was yet at the bar, that he was elected a member of the Philosophical Society of Pennsylvania, on the 19th of April, 1805.

At that time, it is now acknowledged, and from thence until after the peace of 1814, that Association seemed struck with an extraordinary apathy; the spirit which Franklin and Rittenhouse had infused and kept alive, no longer stimulated its members. Jefferson was, indeed, then President, but his residence was too far from Philadelphia, and being at the head of the Government of the United States, he had no leisure to attend to the calls of science; the commerce of the world which our country for a long time enjoyed, interrupted as it was by the orders and decrees of the then two great powers of Europe, and the short war which followed, engrossed the attention of our citizens; literature and science were not encouraged, their friends seemed to be folding their arms in silent despair, and anxiously waiting for better times.

Those times at last arrived, and a new spirit was felt in the passing breeze. Mr. Jefferson resigned the Presidency, which he could not exercise at a distance from the society's hall, and recommended Dr. Wistar for his successor. Wistar was elected in January, 1815, and Jonathan Williams, the nephew of Franklin, and one of the most active and useful members, was raised to a Vice President's seat, by the side of Patterson and Barton. From that moment the society began to revive; a new and strong im-

pulse was given, the effects of which did not remain long unperceived.

We are informed till then, the society had confined their pursuits to the sciences and arts which have the material world for their object, to the exclusion of those which are called by way of distinction, the moral sciences. Many of its members, however, had paid more attention to the latter, than to the former of these two great divisions of human knowledge, and therefore, were prevented from sharing in the labours of their society. It was at once perceived how important it would be to secure the co-operation of those men, by enlarging the field of the society's researches. A new committee was added to the six that already existed, which was denominated the Committee of History, the Moral Sciences, and General Literature. Like all innovations, this was not introduced without difficulty; but the friends of the measure at last succeeded. Among those who exerted themselves to procure its adoption, Mr. Tilghman was conspicuous. His successful exertions were rewarded with the honourable appointment of chairman to the new committee, his conduct showed that this trust could not have been placed in better hands.

The society did not limit to that the expression of their gratitude. In the year that I am speaking of, they suffered the loss of two of their vice-presidents, who ranked among their most distinguished members. Jonathan Williams, whom I have just

mentioned, and Dr. Benjamin S. Barton, died within a short period of each other. Williams was deeply skilled in natural philosophy; his valuable communications enriched their memoirs, and some of them received the honours of a translation in various European languages, even into the Russian. The fame of Barton as a naturalist and phylologist, extended over both worlds. His Elements of Botany were re-printed in England, and translated at St. Petersburg. His numerous memoirs and dissertations threw considerable light on the natural history of our country. And he was the first who, by the publication of his "New Views," drew the attention of the learned to the languages of our American Indians, which now constitute so interesting a part of the philological science.

At the election of officers which took place in January, 1816, Mr. Tilghman was chosen to succeed Dr. Barton, as one of the vice-presidents of the society, while he remained at the same time at the head of the Historical and Literary Committee. In this double capacity he displayed the greatest activity and zeal.

The Historical Committee was then engaged in an extensive correspondence, in order to collect the fleeting materials of the history of our country. For that purpose they met regularly every week, and their labours were crowned with success. They obtained a large quantity of important documents, which probably otherwise would have been lost to our pos-

terity. In this eulogium on Dr. Wistar, Mr. Tilghman feelingly described those meetings, and told how they were often prolonged to a late hour in the night, while the members sat heedless of passing time "over the embers of a dying fire." But he did not speak of the part he had in creating that interest which riveted us to the spot, while he poured out the rich stores of his classic mind. At those meetings he never failed to attend. Tilghman, Wistar, Correa, occasionally Heckewelder, and others still living, formed the active part of the committee. Tilghman and Wistar were its life and soul, and their labours were not the less unremitted, nor less important, for not being so conspicuous as those of the members whose exertions they stimulated and encouraged. In this manner three short years elapsed, in the course of which the Society published a volume of Philosophical and one of Historical Transactions: but those three years were marked by private and public calamity.

"On the 17th June, 1817, Mr. Tilghman lost his only daughter, on whom, since the death of his beloved wife, he had fixed all his happiness in this life. She died in child-bed at the premature age of 23 years. She had not been long before united to the man of her choice, who enjoyed and merited her tenderest affection. The grief of Tilghman on meeting with this sad stroke, can only be compared to that of the Roman orator, when he lost his adored Tulliola. With what pathetic feeling did it burst from him,

will go down with applause to posterity, he little thought what a solid monument he was erecting to his own fame, and the happiness of his country.

His law arguments, were remarkable for the distinctness with which he presented his case, and for the perspicuity and accuracy with which his legal references were made to sustain it. He was concise, simple, occasionally nervous, and uniformly faithful to the Court, as he was to the client. But the force of his intellect resided in his judgment; and even higher faculties than his as an advocate, would have been thrown comparatively into the shade, by the more striking light which surrounded his path as a judge.

An intimate friend of the Cnief Justice has said that in all their intercourse, he never knew him allude to the circumstance of having been a judge of the federal court. There was doubtless a painful recollection connected with it. It is known that his opinion was against the validity of the repealing law; for in a very able protest, published by Judge Bassett, another member of the same court, in which the breach of the constitution was strenuously asserted, he remarks, "If any difference between me and my associates in office exists, it relates merely to the point of time for expressing our sentiments. I can confidently assert, that, on deliberation, they coincide with me in other respects."

It was reserved for Judge Tilghman, with the aid of able and enlightened colleagues, to carry into effect the

plan which the genius of his great predecessor had conceived. His philosophical mind perceived at once how equity could be combined with law; how two systems, apparently discordant could be amalgamated into an homogeneous whole; he found in the common law itself, principles analogous to those which courts of equity enforce; principles too long obscured by the unmeaning distinctions and frivolous niceties of scholastic men; he wiped off the dust from the diamond and restored it to its pristine splendor. And though he did not entirely complete that immense work, which still wants the aid of wise legislators and liberal judges, he brought it to that degree of perfection which defies all attempts to destroy it in future, and Pennsylvania boasts of a code of laws which her ordinary courts may safely administer without the fear of doing injustice, and without needing to be checked by an extraordinary tribunal professing a different system of jurisprudence.

With the same enlightened and philosophical spirit, Judge Tilghman always gave a fair and liberal construction to the statutes which the legislature made from time to time for the amendment of the law and simplifying the forms of proceeding, which, however they might be suited to the meridian of England, were not well calculuted for this country. If those statutes were not always drawn with the requisite skill, he would supply it by their spirit, and would, as much as indeed he could, carry into effect the intentions of the legislator. Thus, by his interpretation

of the statutes called of *Jeofail*, our practice is now freed from those technical entanglements by which justice was too often caught, as it were, in a net, and the merits of a cause made to yield to formal niceties, while chicane rejoiced at the triumph of iniquity. Nor did he hesitate to brush away the cobwebs of the old English law, when he found them inconsistent with the spirit of our own constitution and laws, or with the habits, manners, and feelings of our people. He was, nevertheless, a friend to the common law. As a system, he admired it; as the law of this land he enforced it. He cherished it principally as the fountain of those principles of civil and religious freedom, which, while despotism enslaved a willing world, it was the first to proclaim, and which the nations of the old and new hemisphere, through bloody wars and revolutions, have been, and are still striving with various success, to naturalize in soils not yet, perhaps, sufficiently prepared for their reception. Trial by jury, the liberty of the press, the sacred privilege of habeas corpus, always found in him a warm and an able supporter; and on these subjects it is enough to say, that he established the long contested general rule, that security for good behaviour should not be demanded before conviction, particularly in cases of alleged libel, where the accusation involves the great principle of the liberty of the press; a decision worthy of Holt or Camden, and of the best times of English freedom.

His opinion on constitutional law, will remain a

lasting monument to his fame. No man understood better than himself the complicated mechanism of our federal system; no one perceived with a clearer ken the limits which separate the rights and powers of the national and state authorities; none ever defined those rights with greater precision and accuracy, or asserted them with greater firmness and impartiality. He never would assume jurisdiction when it appeared to him that the courts of the United States were exclusively entitled to it, and on the other hand, he never shrunk from the exercise of his own rights as a state judge. Thus, in a well known case, he maintained the doctrine, that a state court might interfere and give relief, when a citizen was illegally deprived of his liberty under colour of the federal authority.

In cases depending on international law, his vast knowledge and erudition particularly shone. He settled several important points, on questions of *conflictus legum;* a branch of the legal science not yet sufficiently investigated, either in Europe or in this country, and the principles of which still remain to be fixed on that broad and liberal basis, which the mutual convenience of nations seems to require.

The higher judicial offices in our country, are posts of great distinction, and they owe it to their attendant exertion and responsibility. They put in requisition the noblest faculties of the mind, the finest properties of the temper, and not unfrequently they task to the utmost the vigour of an unbroken constitution. Very few, if any, of their duties are mechanical. There

is no routine by which their business is performed without the expenditure of thought. The cases which come before the Judges are new either in principle or in circumstance; and not seldom the facts which ask for the application of different principles, are in the same cause, nearly in equipoise. There is consequently an interminable call upon the Judge to compare, discriminate, weigh, adopt, reject, in fine to bring into intense exercise his whole understanding. Where the profession is candid and well instructed, nothing that is obvious, and little that can be made so without deep consideration, is referred to the decision of the Judges. For them the universal intelligence of the world is at work to complicate the contracts and the duties of men. For them are reserved those Gordian knots, which, although others may cut, they must at least appear to untie. Every judgment is made under great responsibility to the science;—it must be a rule for the future, as well as for the past. It is made under an equal responsibility to the parties;—the Judge is the defaulter, when through his means the defaulter escapes. It is under a higher responsibility to heaven;—the malediction of an unjust sentence is heavier upon him that gives, than upon him that receives it.

He who, through a large portion of the short life of man, properly sustains such an office, studying all his causes with the intenseness of personal interest,—improving the science by adding daily confirmation to the defences of liberty, reputation and

property,—and at the last standing clear in his great account of justice impartially administered to the poor and the rich, the guilty and the innocent,—he that does this is entitled to the homage which man ought to render to man, and may claim, but not till then, to stand his reputation by the side of the late venerated Chief Justice.

From the time that he took his seat on the Bench at March Term, 1806, for the space of more than ten years, he delivered an opinion in every case but five, the arguments in four of which he was prevented from hearing by sickness, and in one by domestic affliction; and in more than two hundred and fifty cases, he either pronounced the judgment of the Court, or his brethren concurred in his opinion and reasons without a comment.

His attention from the beginning to the end of the twenty-one years that he presided in the Supreme Court, was undeviatingly given to every case; and he prepared himself for all that required consideration at his chamber, by taking an accurate note of the authorities cited by counsel, and of the principal heads and illustrations of their argument.

This labour was not performed to accumulate the evidences of his devotion to business, nor under subjection to an inveterate habit. He was far above all this. He did it under a sense of conscientious duty to retain such minutes as would enable him to examine the authorities, and to review the observations of counsel, after the illusion and perhaps the excite-

ment of the public discussion had gone by. The contents of twenty volumes of reports, and upwards of two thousand judgments, most of them elaborate, all of them sufficiently reasoned, very few upon matters of practice, or on points of fugitive interest, attest the devotion of his judicial life; and although it is not meant to deprive of their share of the merit of these labours, the eminent men who survive him on the Bench, and who remain to continue and I hope to exalt the fame of our jurisprudence, I may say, and they will cheerfully admit, that he was the presiding spirit of their consultations, as he was of their court.

In addition to these strictly official duties, the Legislature of Pennsylvania, committed to the Judges of the Supreme Court, in the year 1807, the critical duty of reporting the English statutes in force within this commonwealth. The duty is called *critical*, for so undoubtedly it was considered by the Chief Justice. The service exacted an unlimited knowledge of our colonial legislation, and of the practice and administration of the law in the Province, though a period of nearly a century, in which there was not the light of a reported case. It required also an intimate familiarity with the written law of England, its history both political and legal, and a knowledge of the impressions which it had given to and received from the common law, during the course of many centuries. The selection moreover was to be made in the chambers of the Judges, without the aid of that best of all devices for eliciting the truth, an ar-

dent, free, and ingenuous discussion by counsel. I need not inform the professional reader, that the task was Herculean. In the course however of less than two years, it was performed; and the profession and the public are indebted to it for an invaluable standard of reference in a province of the law, before that time without path or guide. It is not perfect. It has not the obligation of judicial authority. I speak the sentiments of its principal author. Some statutes are perhaps omitted. Still the original work will remain as a monument to those by whom it was erected, and who may now be said to rest beneath it. If it shall increase at all, it will be by the contributions which the hand of respect and affection shall bring to swell the tribute to the venerable dead.

The labours thus recited, in addition to what is known to have been performed at Nisi Prius, and in circuits through the state, entitle this eminent Judge to the praise of great industry, a virtue which it is an offence against morality to call humble, in one who is the keeper both of his own talent, and not seldom of that, of others also. It was, however, industry of the highest order—a constant action of the intellect practically applied.

But the character of his mind as it shines forth in his judgments, is a subject of much livelier interest.

The first great property which they disclose, is his veneration of the law, and above all, of the fundamental Common Law. There is not a line from his pen, that trifles with the sacred deposit in his hands,

by claiming to fashion it according to a private opinion of what it ought to be. Judicial legislation he abhorred, I should rather say, *dreaded*, as an implication of his conscience. His first inquiry in every case was of the oracles of the law for their response; and when he obtained it, notwithstanding his clear perception of the justice of the cause, and his intense desire to reach it, if it was not the justice of the law, he dared not to administer it. He acted upon the sentiment of Lord Bacon, that it is the foulest injustice to remove land-marks, and that to corrupt the law, is to poison the very fountain of justice. With a consciousness that to the errors of the science there are some limits, but none to the evils of a licentious invasion of it, he left it to our annual legislatures to correct such defects in the system, as time either created or exposed: and better foundation in the law can no man lay.

Those who study his opinions, while they may remark that he was unusually sparing of references to authority, will find that it was the result of selection and not of penury. He was not, however, what is sometimes termed a great case-lawyer. His memory did not appear to be tenacious of insulated decisions; nor is it usual for men of philosophical minds, who arrange the learning of their profession by the aid of general principles, to be distinguished by their recollection of particular facts. With the leading cases under every head, those which may be called the *light-houses* of the law, he was familiar, and knew

their bearings upon every passage into this deeply indented territory; but for the minor points, the soundings that are marked so profusely upon modern charts of the law, he trusted too much to the length and employment of his own line, to oppress his memory with them. It was not his practice to bring into his judgments, an historical account of the legal doctrine on which they turned, nor to illustrate them by frequent references to other codes, to which, nevertheless, he was perfectly competent by the variety as well as by the extent of his studies. His preference was rather to deduce the sentence he was about to pronounce, as a logical consequence from some proposition of law which he had previously stated and settled with great brevity. No Judge was ever more free both in mind and style from every thing like technicality. He never assigned a technical reason for any thing, if another were at command, or if not, without sustaining the artificial reason by an explanation of its grounds. At the same time his knowledge embraced all the refinements of the law, and he took an obvious satisfaction in showing their connection with substantial justice.

His judgments are further distinguished by perspicuity, precision, and singleness.

No careful reader was ever at a loss for the meaning of the Chief Justice, and his whole meaning. His language is transparent; you see through it, instantly, the purpose of the writer. There is no involution, no parenthesis, no complication. Every thing is direct,

natural, and explicit. His style without being dry, and possessing upon proper occasions such embellishments even, as a severe and critical taste would permit, is made up, in general, of terms and phrases so entirely ascertained in their meaning, as to defy the extraction of a double sense, an excellence of the very first order in judicial compositions. This precision, was the result of an accurate adjustment of the argument before he committed it to paper. His opinions, such as they appear in the earliest reports of them, and I presume the same of the whole, were published from the first draught, in which it was rare to find either erasure or interlineation; and it is confidently stated by one of the eldest members of the bar, that there was no instance in which he was asked by counsel, or induced by his own review, to give an explanation of them. This was, indeed, a natural consequence of that singleness, to which I have alluded as a striking feature of his judgments. He paid little respect to what are called *dicta*, opinions collateral to the matter in judgment, from whatever quarter they might come. He pronounced none himself. His concern was with the point in issue, and nothing else; and he kept his eye on that, as a mariner does upon the Pole-star.

All his opinions are, moreover, remarkable for their admirable common sense, and their adaptation to the common understanding. There is no reaching after what is recondite, or abstruse,—no affectation of science. The language of the law, as he uses it, is ver-

nacular, and his arguments are the most simple that the case will bear. They are not an intricate web, in which filaments separately weak obtain strength by their union, but a chain, whose firmness arises from the solidity of its links, and not from the artifice of their connexion.

But that quality which exalts his judgments the most in the estimation of the public, is the ardent love of justice which runs through them all. His appetite for it was keen and constant; and nothing could rouse his kind and courteous temper into resentment, more than a deliberate effort to entangle justice in the meshes of chicane. The law was his master; he yielded implicit obedience to its behests. Justice was the object of his affections; he defended her with the devotion of a lover. It is the high praise of his administration, and of the profession too, that the occasions were rare in which his efforts did not bring them into harmonious co-operation.

Is it not worthy of remark, that judgments such as these, which enjoyed universal respect, were nevertheless, free from every thing like pretension? Chief Justice Tilghman could have done as much with the Bar of Pennsylvania, by the force of his authority, as any Judge that ever sat in his seat. His investigations were known to be so faithful, his reasonings so just, and his convictions so impartial, that there would have been a ready acceptance of his conclusions, without a knowledge of the steps which led to them. He asked however, for submission to no authority, so rarely as

to his own. You may search his opinions in vain, for any thing like personal assertion. He never threw the weight of his office into the scale, which the weight of his argument did not turn. He spoke and wrote as the minister of reason, claiming obedience to *her*, and selecting with scrupulous modesty such language, as while it sustained the dignity of his office, kept down from the relief, in which he might well have appeared, the individual who filled it. Look over the judgments of more than twenty years, many of them rendered by this excellent magistrate after his title to unlimited deference was established by a right more divine than that of Kings,—there is not to be found one arrogant, one supercilious expression, turned against the opinions of other judges, one vain glorious regard toward himself. He does not write as if it occurred to him, that his writings would be examined to fix his measure, when compared with the standard of great men, but as if their exclusive use was to assist in fixing a standard of the law.

It is to all these qualities that Chief Justice Tilghman owed the confidence of his brethren on the Bench. It does not appear that his opinion at Nisi Prius or on the Circuit was ever over-ruled, nor that his judgment in Bank was made ineffectual by a majority of the Court, except in a single instance; and it will not be deemed offensive to say, that when the same question shall recur, it will probably be considered without any decisive influence from this unsupported case.

If the common law were a science, in which the mind of a Judge might speculate without impediment, as in some others, it would be natural to ask, what new principles he has added to the code, or what new combinations he has made to increase its vigour. It is such an inquiry that imparts interest to the biographical notices of men, who have been eminent in Physics, in the higher branches of the Mathematics, and emphatically of such as have been distinguished actors in the formation of political Constitutions, or of new codes of law. There is a freedom and expansiveness in some parts of Science, that even imagination may be invited to attend upon genius as it explores them; and the Legislator especially, or the founder of new governments, is so little restrained in his movements, that the personal character of the individual becomes the pervading soul of the work, and looks out from every part of it. But the law as a practical science, depends mainly for its value, upon retaining the same shape and nearly the same dimensions from day to day. A speculative, inventive imaginative Judge is a paradox. No one can reasonably ask what a Judge has invented or devised, or even discovered. His duty and his praise are in the faithful administration of a system created to his hands; a system of principles, the just development of which affords sufficient scope for genius, without destroying what is established, or innovating in the spirit of a law giver. If ever his labours approach the merit of discovery, it is when he reforms or brings to light

what had a previous existence, but had been perverted or obscured.

In some particulars of great interest to the profession, the late Chief Justice had the merit of relieving our code from perversion and obscurity of this description. He has certainly reinstated a statute of indispensable use, and which was imperceptibly giving way to judicial legislation here, as it has thoroughly done in England, the *Statute of Limitations* in actions of assumpsit. On this subject he distinctly led the way in Pennsylvania; and in every particular in which he was not restrained by authority, he has brought our Courts back to the true interpretation. He has, as it were, reclaimed this resting place for the unfortunate, from an irruption of the ocean.

He led the way also, and has resolutely persevered, in opening the large rivers of this Commonwealth; to the great work of public improvement, by rejecting the inapplicable definitions of the English common law, which would have subjected them to the claim of the riparian owners.

He has followed up that work which his father is said to have begun, by giving the force of his mind and influence to the establishment of such rules, as make the Land Office system harmonize with every other part of our code.

But his great work, that at which he laboured with constant solicitude, but with scarcely a passing hint that he was engaged in it, is the thorough incorporation of the principles of scientific equity, with the

law of Pennsylvania, or rather the reiterated recognition by the Bench, that with few exceptions they form an inseparable part of that law.

The distinction between law and equity is well understood by the Profession, but difficult to explain to popular apprehension. It is a great but prevalent mistake, to suppose that a Court of Equity is the reproach of the common law, whereas it is its praise; at least the praise of its illustrious origin. The Common Law, being originally the law of freemen, of that Saxon stock from which is derived the freest race upon earth, left nothing to the discretion of the Judge or the Monarch. It was itself the great arbiter, and ruled every question by principles of great certainty and general application. In its earliest day, a day of comparative simplicity, its general principles and forms embraced and adjusted almost every transaction: and when they did not, the authority of the Common Law Courts was legitimately extended by new writs devised in the then incipient Chancery. The refinements of later times, the invention of uses, and afterwards of trusts, the complications of trade, the defects incident to the multiplied operations of men, all tended to produce controversies which the Judges of the Common Law could not, consistently with their integrity and the integrity of their rules, adjust with perfect effect; and hence the development of the Court of Chancery. It is a great misconception of that Court, to suppose that it overturns the Common Law. Equity is a part of the Common

Law; and a Court of Chancery is the homage paid by a free Constitution to the integrity of the Courts of Common Law. It is the handmaid of those Courts. It restrains dishonest men from applying the general rules of those tribunals to cases which they ought not to embrace,—it extends to the upright the benefit of a rule of those Courts, of which a defect in circumstance deprived them,—and it attains its purposes by a process, between parties, and through a method of relief almost necessarily different from those of the Courts of Common Law, but in perfect analogy with what the rules of those Courts effect where they properly apply. It is no more the reproach of the Common Law, that it has a department of Equity, than that it has a department of Admiralty Law, or of Ecclesiastical Law. There is no more reason why the original constitution of the Courts of Common Law should be destroyed, by blending with their principles and practice, the rules of a Court of Chancery, than by uniting with them the rules of the Admiralty. It is a question of having two Courts to execute different parts of the same system, instead of one; and the experience of England, and of most of these States, is better than volumes, to show, that the purity and vigour of both law and equity, are maintained by preventing their intercourse in the same tribunal. That their separation is unfriendly to the people, is refuted by the great examples of Maryland, Virginia, and New York, and by the example of all the States in their Federal capacity.

It is the misfortune of Pennsylvania that the want of a Court of Chancery has left her tribunals no alternative but that of attempting this difficult incorporation. Her Chancery history is short and striking.

There was no such Court among the institutions of William Penn, or of his day. That this was the consequence of a jealousy of the principles and practice of that Court entertained by the people, is not indicated by their early juridical history. It was more probably owing to a question connected with the introduction of the Court, and under the influence of which it met an early fate,—in whom, according to the constitutional law of that day, the office of Chancellor ought to vest, and whether it could be legally executed except by one, who under the great seal of England, acted as the king's representative. The prerogative lawyers of the colony held the negative of that question; yet the alleged necessity for the Court was such, and such the attachment to both its forms and principles, that the Legislature, by a mere resolution, requested Sir William Kieth, to hold a Court of Chancery, and it was accordingly opened under the proclamation of that Governor, in August, 1720. During the rule of a less popular Governor in 1786, the organization of the Court was denounced by the Assembly as a violation of the Charter of Privileges, and at the same session a Bill was sent up for the approbation of Governor Gordon, establishing Superior and Inferior Courts of Equity in the ordinary way. The prerogative objection recurred, it

became a party question, the Bill was not approved, Chancery powers were no further exercised, and Pennsylvania lost the system, because her Governors and representatives could not agree by whom the office of Chancellor should be held.

It may be supposed that the circles of this party feud grew larger as they advanced, and that they finally encompassed the Court itself. Such probably was the case at the commencement of the revolution. Scientific Equity fell under general proscription, and with some few exceptions was made to give place to a spurious equity, compounded of the temper of the judge, and the feelings of the jury, with nothing but a strong infusion of integrity, to prevent it from becoming as much the bane of personal security, as it was the bane of science.

It was to expel this usurper, that the days and nights of Chief Justice Tilghman were devoted,—a work suggested it is true by that distinguished predecessor to whom he owed his office, but consummated by himself and his colleagues, to whom we owe a debt not to be acquitted, for having fully established the principles of methodized and scientific equity in their just sway, as a part of the common law of the land.

He achieved this work, at the same time, without the slightest innovation upon legal forms, upholding them on the contrary as the only instruments for the administration of equity, except where the Legislature otherwise directs. No one ever knew him usurp

a power of any kind, still less a power of Chancery, of which, his very affection for the system seemed to make him apprehensive. He has expressed the opinion, that the Legislature would, at no distant day, find it expedient to provide for Trusts, as well as for other subjects of Chancery jurisdiction; but, in the mean time, he has taught us how to clothe a large body of equity principles in the drapery of the law. In those cases, in which Equity consists in the very methods of her administration, the Chief Justice looked for final relief from the representatives of the people; and he waited patiently, and was content that they should wait the instruction of time. Is the hope vain, that the opinion of this pure and enlightened Judge, may be received instead of that instruction?

Let it not be supposed, however, because he was deeply imbued with the principles of Equity, that he was therefore latitudinarian. His Equity was as scientific as his Law. It was the Equity of the Hardwickes, the Thurlows, and the Eldons of England, of the Marshalls, the Washingtons, the Kiltys, and the Kents of the United States;—an equity without discretion, fixed as the principles of the Common Law, and like it, worthy of the freemen of whose fortunes it disposes.

It is in the points already noticed, without referring to a mass of invaluable adjudications on particular questions of law, that the late Chief Justice has made an impression upon the science in this commonwealth. His influence upon it, cannot be forgotten. He will

not be remembered merely as an upright and able Judge, who has maintained the dignity of his profession and office, but as one who has stamped his peculiar principles and modes of thought upon the code, and who has imparted to it as much of the philosophical cast of his own mind, as could with safety be carried into a science, that is as well a science of authority, as it is of principles.

In the department of Penal law he was relieved by his office from frequent labours, although he annually presided in a Court of Oyer and Terminer for Philadelphia county. His knowledge of this branch of the law was extensive and accurate; his judgment in it, as in every other, was admirable. His own exemption from moral infirmity, might be supposed to have made him severe in his reckonings with the guilty; but it is the quality of minds as pure as his, to look with compassion upon those who have fallen from virtue. He could not but pronounce the sentence of the law upon such as were condemned to hear it; but the calmness, the dignity, the impartiality, with which he ordered their trials, the deep attention which he gave to such as involved life, and the touching manner of his last office to the convicted, demonstrated his sense of the peculiar responsibility, which belonged to this part of his functions. In civil controversies, such excepted, as by some feature of injustice demanded a notice of the parties, he reduced the issue pretty much to an abstract form, and solved it as if it had been an Algebraic problem. But in cri-

minal cases, there was a constant reference to the wretched persons whose fate was suspended before him; and in the very celerity with which he endeavoured to dispose of the accusation, he evinced his sympathy. It was his invariable effort, without regard to his own health, to finish a capital case at one sitting, if any portion of the night would suffice for the object; and one of his declared motives was to terminate, as soon as possible, that harrowing solicitude, worse even than the worst certainty, which a protracted trial brings to the unhappy prisoner. He never pronounced the sentence of death without severe pain; in the first instance it was the occasion of anguish. In this, as in many other points, he bore a strong resemblance to Sir Matthew Hale. His awful reverence of the great Judge of all mankind, and the humility with which he habitually walked in that presence, made him uplift the sword of justice, as if it scarcely belonged to man, himself a suppliant, to let it fall on the neck of his fellow man.

In Mr. Tilghman it is unquestionably true, that these properties of a great Judge, were adorned by manners, the combined effect of a benevolent heart, and of a fine education, which made his intercourse with the Bar, and theirs with him, an unbroken circle of affection and respect. The practice of the law is not without its trials to a Judge of the happiest temper. The efficiency of the advocate, in some causes, depends upon his giving the rein to his ardour, and in moving with a velocity which kindles others as well as him-

self. These rapid movements are unfriendly to a nice selection of phrases, and to that deference to the opposing sentiments of the Court, which the due order of a judicial tribunal demands. It argues little against the Judge or the advocate, that in cases like these, there should be momentary lapses of the temper. But whose memory is so unfaithful as to record one such incident in the judicial life of Chief Justice Tilghman? He knew the respect of the Bar for him to be so cordial, that he never suspected offence; and they knew his integrity and fidelity to the law to be such, that they never placed his judgment on any occasion, to the account of prejudice, partiality, or impulse. The reign of sound law and impartial justice in the Supreme Court of the State, has therefore been the reign of courtesy and kindly feelings between the Bench and the Bar; and though dead, he will continue to speak as if living, in favour of this natural and delightful union.

Upon the whole, his character as a Judge, was a combination of some of the finest elements that have been united in that office. Among those which may be regarded as primary or fundamental, were a reverential love of the Common Law, and a fervent zeal for justice, as the end and intended fruit of all law. The former was enlightened by laborious study in early life, the latter was purified like the constitution of his whole mind, by a ceaseless endeavour to ascertain the truth. In the service of these exalted affections, he never faultered. His effort in every cause

was to satisfy them both; and by attention to the researches of others, patient inquiry for himself, and a judgment singularly free from disturbance of every mind, he rarely failed to attain his object. Other Judges may have had more learning at immediate command,—none have had their learning under better discipline, or in a condition more effective for the duty on which it was employed. His mind did not flow through his opinions in a stream of exuberant richness, but its current was transparently clear, and its depth was never less than the subject required, however profound. He was moreover equal to all the exigencies of his office, and many of them were great, without any such exertion as appeared to disturb the harmony, or even the repose, of his faculties; and he has finally laid down his great charge, with the praise of being second to none who have preceded him in it, and of leaving his countrymen without the expectation or the desire of seeing him surpassed by those who shall follow him.

The judicial faculties and virtues which are here described, could never have been the companions of disorder in the mind, the affections, or the life of the individual. Lord Coke has made to the aspiring student of the Law, this striking appeal, too flattering perhaps, except while the venerable portrait of the late Chief Justice is still before us: "Cast thine eye upon the sages of the law "that have been before thee, and never shalt thou "find any one that hath excelled in the knowledge

"of these laws, but hath drawn from that divine "knowledge, gravity, and integrity." He pronounces this knowledge to be irreconcilable with a loose and lawless life, and gives the result of his large experience, that he had never seen any man of excellent judgment in the Common Law of England, "but was withal, being taught by such a master, honest, faithful, and virtuous." The Chief Justice was not only thoroughly taught by this master, but he came into the school accomplished in elegant learning; and long before he left it, there was associated the training of another school, worthier far than the Common Law, of the exalted eulogy of Sir Edward Coke.

His early education, it has been remarked, was excellent. He was an accomplished Latin scholar, but, to his own regret, had suffered his Greek to fall away by desuetude. The literature of the former language, he kept constantly fresh in his mind. His memory was stored with beautiful Latin, which he has been heard to repeat as it were to himself, when the occasion recalled it, and his modesty did not care to pronounce it aloud. On all his Circuits and journies into the districts of the Supreme Court, his companions were the BIBLE, a Latin author, and some recent treatise of distinction in the law. Upon the last that he ever made, he refreshed his recollections of the Pharsalia. It is perhaps no idle fancy to suppose that he may have then read, with almost a personal application, the prophetic appeal of the Spectre to the race of Pompey:

..... veniet quæ misceat omnes
Hora duces. Properate mori.....

Such a name and such an example, are of great efficacy in the inquiry concerning the fittest basis of liberal education. All the faculties of his mind were thoroughly developed,—he accumulated large stores of knowledge,—he brought them into daily use,—he reasoned accurately,—he conversed elegantly,—his taste was refined,—the pleasures which it brought to him were pure,—his imagination was replete with the beautiful forms of ancient poetry,—he was adequate to the functions of one of the most exalted offices,—he knew little of the natural sciences,—and his education was such as has been described. It would be unjust to him, however, to say that he undervalued knowledge of any kind, and least of all that knowledge which is opening every day to the world, and to this part of the world especially, new sources of wealth, and new proofs of the wisdom and benificence of Deity. On the contrary, with that diffusive liberality for which he was conspicuous, he gave his counsel and his money to every plan for increasing this species of knowledge; but it cannot be asserted of him, that he recommended it in any of its branches, as an instrument for unfolding the faculties of youth. He regarded these sciences as treasure for accumulation, after education had performed its office. For the great work of training the minds of young men to liberal pursuits, and to the learned professions, his

opinion was anchored upon the system, by which he had been reared himself,—the system of the American Colleges.

While the Chief Justice continued his intercourse with the learned ancients, he found leisure in the intervals of office, for the literature of his own language, in which he was extensively versed, and for which he possessed the keenest relish; and it is to these two sources that he owed the purity of his style, where nothing coarse or vulgar ever appeared, and which without being affected or elaborate, was remarkable for the absence of all words of questionable authority.

In politics, he was a warm patriot, and a friend to civil and religious liberty. But he never mixed in party intrigues, and never learned to hate men for being of a different opinion from his own. When great and important questions arose, which involved the fate and the happiness of his country, he took a decided part, and his talents and influence were devoted to the support of the opinion that he had espoused. It is well known that he was a zealous friend to the adoption of our present happy constitution, and that he promoted it by his exertions in the Maryland Legislature. It is known also that through life he was sincerely attached to its principles, and considered the union of the States as the bulwark of our future happiness. He was a warm admirer of Washington, who, on his part, entertained a high

opinion of his character, and honoured him with his familiar correspondence.

His politics, indeed, were of that enlarged cast, which accorded very little with party feelings. He viewed the interest of his country on the most extended scale. He looked forward to posterity, and was not contented with raising a tottering edifice for the present generation. Agriculture and manufactures he considered as the most solid foundations of our national prosperity. Commerce he did not undervalue, but it would be sure to follow and prosper in their train.

Consistently with these principles, he was a zealous and active member of the Philadelphia Society for promoting Agriculture. In the year 1814, he was elected their vice-president, in the place of the patriotic George Clymer, and continued in that office to the time of his death. While residing on his father's farm in Maryland, he had become familiar with the subject of their investigations. The discourse which he delivered before them on the 18th of January, 1820, is replete with practical as well as theoretical knowledge. It abounds with interesting facts, and displays at the same time the talents and eloquence of the writer. *(See Appendix, B.)*

He was the president of the Society for the encouragement of American manufactures, and there he may be said to have been pursuing one of the objects nearest his heart. He thought that America never could be independent without manufactures. We

might as well have remained colonies to Great Britain as not to manufacture for ourselves; for the prohibition of those arts was the basis of the English colonial system. Indeed, he carried this feeling to that degree of enthusiasm, that for ten years before his death he would not wear any article that was not manufactured in this country. He had once the satisfaction to make an importer of British goods, strongly prejudiced in favour of his merchandise, acknowledge that a piece of superfine American cloth which he showed him was better dyed than the best English cloth of the same quality. How he triumphed on that occasion, his friends to whom he was fond of relating the circumstance, may well remember.

How he patronized the arts and sciences, and every species of American improvement, I need not relate, for each institution in their turn looked up to him as a patron. But those were not confined to the bosom of one Society, they displayed themselves in every scientific and literary institution to which he belonged, and those were numerous. Of the Academy of Natural Sciences, and that of the Fine Arts, he was a valued associate. He was distinguished as one of the Board of Trustees of the University of Pennsylvania, over whose deliberations he and a venerable member of the Philosophical Society, now living, were generally called upon to preside. The Philadelphia Athenæum, founded in 1814, and now so flourishing, chose him for their president. He presided in like manner over the Society which was

incorporated in 1821, for establishing the Law Academy of Philadelphia, to whose success he mainly contributed. And that Academy will ever revere the memory of their illustrious patron.

I need not enumerate the religious, charitable, and benevolent associations of which he was an efficient member. In most of those Societies he held a distinguished rank; for his fellow-citizens delighted to honour him. Nor were the tributes of respect he received, confined to this city or to this State. In the year 1814, Harvard University, that ancient and celebrated institution, which is known not to be lavish of its honours, conferred upon him, unsolicited, the degree of Doctor of Laws; he was also elected a member of the American Academy of Arts and Sciences. Those distinctions, though unsought, must have been grateful to him, from a city which rivals Philadelphia, in her zeal for the promotion of knowledge. Of his attachment to science, and in particular to the Philosophical Society of Pennsylvania, he gave a proof in the last solemn act of his life. By his last Will and Testament, he left a legacy of two hundred dollars, to this Society; and a like one to the Athenæum of Philadelphia.

Those who knew Dr. Wistar and Judge Tilghman while they both lived, cannot but have observed that similarity of disposition and feelings which produced the warm and intimate friendship that subsisted between them. The same expansive philanthropy, the same love of truth, the same constancy in their

attachments, the same solidity in their friendships. Alike modest and diffident, each admired in the other those virtues, which in himself be considered as of ordinary value. The hearts of those two excellent men were cast in the same mould, and a true picture of the one is a faithful delineation of the other.

Judge Tilghman was born with warm passions; but he had learned early to subdue them; the successful efforts which he made, joined to his excessive modesty and diffidence, gave to his first appearance an air of coldness and reserve, which might be mistaken for pride or a want of the kinder feelings: but this soon disappeared on a nearer acquaintance: yet he preserved always in his person and manners that proper dignity which checks undue familiarity, while it puts no obstacle to decent hilarity, or to the warmest effusion of confidence and friendship among those who know how to respect themselves and each other.

The genuine warmth of his heart found its noblest channel in acts of charity and benevolence. His accounts show more than seventeen thousand dollars, expended by him in a few years, in charitable donations, and accommodations of mere kindness. His contributions to objects of public utility, form a large item in the list of his expenses. Yet he was not rich; the property he left behind him is far from considerable; but his prudent economy, and the great order and method with which he managed his private affairs, enabled him to live as became his station, and to give

full scope to his kind feelings, by generous and charitable acts.

He was punctual to his engagements; when he had made an appointment, he never failed to attend at the precise moment. In the Court over which he presided, business was never delayed on account of his absence, for he was always ready at his post. Even a very few days previous to his last illness, when the signs of approaching dissolution might be traced on his countenance, he attended to his duty as long as his strength permitted him. On one of those days, before the Court was opened, being asked by a friend how he was, he looked steadily in his face, and answered, "I have not long to live." A few weeks afterwards he was no more.

He loved justice and equity for their own sakes. What in others is a virtue, was in him a feeling and a natural propensity. His strict adherence to truth, his abhorrence of falsehood, his unshaken integrity, were known to every one, and from his earliest youth stood among the most prominent traits of his character. In Maryland he was called the honest lawyer, and while in the legislature of that State, this quality, and the well known soundness of his judgment procured him an unbounded influence. A member once entered the house while an important question was taking. Somebody tried to explain it to him. "It is no matter," answered he, "which side did Mr. Tilghman support? With him I am sure to be right." While he was Chief Justice, he understood that a

case was to be submitted to his decision, in which the Bank of the United States was concerned. He immediately sold a share which he held in the stock of that institution, lest, unknown to himself, his mind should be in the least biassed. He was so much on his guard against his private affections, that his friends used to say, that his enemies had the better chance of a favourable judgment. The truth is, that he considered neither friends nor enemies; justice in his judgments was the single object that he had in view.

His moral qualities were of the highest order. It has been said, that the panegyrists of great men can rarely direct the eye with safety to their early years, for fear of lighting upon the traces of some irregular passion. But to the late Chief Justice may be applied, the praise of the Chancellor D'Aguesseau, that he was never known to take a single step out of the narrow path of wisdom; and that although it was sometimes remarked that he had been young, it was for the purpose not of palliating a defect, but of doing greater honour to his virtues. Of his early life, few of his cotemporaries remain to speak; but those few attest, what the harmony of his whole character in later years would infer, that his youth gave presage by its sobriety and exemplary rectitude, of all that we witnessed and admired in the maturity of his character. It is great praise to say of so excellent a Judge, that there was no contrariety between his judgments and his life,—that there was a perfect con-

sent between his public and his private manners,—that he was an engaging example of all he taught,—and that no reproach which, in his multifarious employment, he was compelled to utter against all the forms of injustice, public and private, social and domestic,—against all violations of law, from crime down to those irregularities at which, from general infirmity, there is a general connivance,—in no instance, did the sting of his reproach wound his own bosom. Yet it was in his life only, and not in his pretensions, that you discerned this his fortunate superiority to others. In his private walk she was the most unpretending of men. He bore constantly about him those characteristics of true greatness, simplicity, and modesty. Shall I add, that the memory of all his acquaintance may be challenged to repeat from his most unrestrained conversation, one word or allusion, that might not have fallen with propriety upon the ear of the most fastidious delicacy.

His manners in society, were unusually attractive to those who were so fortunate as to possess his esteem; and they were the reverse to none, except those who had given him cause to withhold it. Their great charm was sincerity, and though unassuming and retired, they never failed to show the impress of that refinement in which he had passed his life.

The kindness of his nature appeared in the intercourse that he maintained with his fellow citizens, notwithstanding the claims of his station. He probably entertained Mr. Burke's opinion, that *as it is*

public justice that holds the community together, the Judges ought to be of a reserved and retired character, und wholly unconnected with the political world. He certainly acted up to all that the sentiment asserts; and he found the benefit of it, the community did also, in a ready submission to those judgments, more than one, in which a suspected infusion of party would have been a disturbing ingredient. No one who knew him in private life, had however any reason to doubt his opinions, when the occasion fitly called for their expression. Not deeming it discreet to meet his fellow citizens in those assemblies where either politics or their kindred subjects were to be discussed, he seized with the more avidity, such occasions of intercourse, as were presented by meetings for public improvement, for philosophical inquiry, or the cultivation of literature; and in particular he attended with great interest to the concerns of the American Philosophical Society, of which as I have mentioned before, he was chosen President, on the death of Dr. Patterson, in the year 1824, and to those also of the Athenæum, of which he was the first, and during his life the only President;—the Trustees of the University of Pennsylvania rarely missed him from his seat, or the United Episcopal Churches, of Philadelphia, from their Vestry, as the Warden of his venerable friend and pastor Bishop White. It was in this way that he diminished the distance to which his office removed him from society; keeping however a constant eye upon that office, even when he moved

out of its orbit, and taking scrupulous care, that no external contact should be of a nature to disturb his movements when he returned to it.

It was upon an occasion when a very delicate question agitated the country, that he mentioned to a friend a transaction in his life, which, although in a certain sense public in its character, is even at this time not extensively known. His reason for adverting to it, illustrates in a striking manner his deference to the demands of his station; while the passage in his life to which it refers, discloses his sentiments upon the embarrasing question of negro slavery; a question however upon which, in some of its practical bearings, he thought it an act of infinite rashness to judge other men, and in regard to which he almost concealed his own decided proceeding, lest it should appear to reproach the judgment of his kinsmen and friends.

Having been asked to take part in a public meeting in the City of Philadelphia, upon what has been called the Missouri question, he thought it expedient to decline. "My office," he said, "compels me often to decide upon this irritating question of slavery; and it is not expedient to take part in a public discussion, that might bring my impartiality into doubt. No one who knows the arrangement that I have made with the slaves which belonged to me, will doubt my fervent wish to see the evils of this institution mitigated, and, if possible, extinguished." The arrangement was an instrument executed on the 24th of April, 1811, by

which he emancipated four of his slaves immediately, nine others in successive periods of from three to seven years, and the residue, twenty-five in number, together with their issue, on the first day of January after they should respectively attain the age of twenty-eight years. There was but one prescribed impediment to this emancipation,—unlawful absence from duty, wilfully or by imprisonment for crime; in which case the party's freedom was deferred for treble the term of his absence. The benevolent proprietor lived to see this emancipation attained by twenty, and he has secured its benefit to those that remain. He has secured it in the best way, by making it the reward of fidelity and virtue, and by so regulating it both as to time and numbers, as to give its objects the best chance of establishment in the community.

The temper of the Chief Justice was singularly placable and benevolent. It was not in his power to remember an injury. A few days before his death, he said to two of his friends, attendant upon that scene, "I am at peace with all the world. I bear no ill-will "to any human being; and there is no person in ex- "istence, to whom I would not do good, and render a "service, if it were in my power. No man can be "happy who does not forgive injuries which he may "have received from his fellow creatures." How suitable was this noble conclusion to his exemplary life! What a grace did this spirit impart to his own supplications! This was not a counterfeit virtue, assumed when the power to retaliate was wasted by dis-

ease. It was not the mere overflow of a kindly nature, unschooled by that divine science which teaches benevolence as a duty. It was the virtue of one, who, in his Eulogium upon his eminent friend Dr. Wistar, *(See Appendix, A.)* who had filled the chair of the Philosophical Society, thus made known the foundation on which his benevolence was built. "Vain is the splendour of genius without the virtues "of the heart. No man who is not *good*, deserves "the name of *wise*. In the language of Scripture, "folly and wickedness are the same; not only be- "cause vicious habits do really corrupt and darken "the understanding, but because it is no small de- "gree of folly to be ignorant, that the chief good of "man is to know the will of his creator, and to do "it."

But it was under the influence of this sentiment, that his fortune became a refuge to the unfortunate, far more extensively, than his unostentatious manners imported. Notwithstanding the panoply which protected him from the assaults of this world, he was like the feeblest of his race, naked and defenceless against the dispensations of Heaven. By the bereavements of death his bosom suffered many and deep lacerations; but they had the propitious effect of opening his heart to mankind, instead of withering and drying up its affections. He was gentle, compassionate, charitable in many of the senses that make charity the first of virtues; and long after his leaves and branches were all torn away, there was

more than one that reposed in the shade of his venerable trunk. His closing year finely illustrated the remark, that the heart of a good man is like a good soil, which is made more fertile by the plowshare, that tears it and lays it open,—or like those plants which give out their best odours when they are broken and crushed.

An interesting record which this venerable man has left behind him, acquaints us with many of his most private thoughts, and presents him in a relation which no man can renounce, and which, when duly observed, is the appropriate light wherein to behold an eminent Judge,—the relation of man to his Creator.

His birth day, the 12th of August, was habitually appropriated to the review of the past year, to self-examination, and to pious devotion.

On the 12th of August 1804, when he completed his forty-eighth year. He says—"my health is good, my constitution unimpaired, but I am deeply impressed with the uncertainty of life. Let me prepare to follow the numerous friends who have left this world before me."—"The last stage of my residence on earth is approaching. Time is precious. I must not suffer it to be wasted in indolence, or thrown away on light amusements. I have endeavoured during the course of this day to strengthen my mind with virtuous resolutions, and I hope my endeavours have not been useless." He then repeats the resolutions he had formed for the government of his life, among which is that of "letting no day pass without pros-

trating himself before the Supreme Being, in meditation, thanksgiving and prayer;" and he concludes his memorial by offering, as he expresses it, "with a grateful heart, his unworthy thanks to the Almighty and Merciful God, for past favours, far exceeding his merits," and by "imploring with all humility, that he would graciously assist his weak endeavours to keep the resolutions he had made."

Before the 12th of August, 1820, that feeble ray which was promised to his declining days, was extinguished. The only child of his only daughter was taken from him. Yet observe, how the light of the divine philosophy shone inward, and dispelled the gloom in which unassisted man would have sunk to despair. "Great God, during the last year, thou hast thrown me on the bed of sickness, and raised me up from it. Thou hast taken from me my last earthly hope. I submit to thy providence, and pray that thou will grant me fortitude under all my afflictions, I am sure that whatever is ordained by thee is right. May I never forget that thou art always present, the witness and judge of my actions and thoughts. My life is hastening to an end. May I, by thy gracious assistance, so employ the remainder of it, as not to be altogether unworthy of thy favour."

On the last anniversary that he ever saw, he begins his paper with this prophetic declaration, "this day completes my seventieth year, the period which is said to bound the life of man. My constitution is

impaired, but I cannot sufficiently thank God, that my intellects are sound, that I am afflicted with no painful disease, and that sufficient health remains to make life comfortable. I pray for the grace of the Almighty, to enable me to walk during the short remnant of life in his ways. Without his aid I am sensible that my efforts are unavailing. May I submit with gratitude to all his dispensations, never forget that he is the witness of my actions and even of my thoughts, and endeavour to honour, love, and obey him, with all my heart, soul, and strength."

It is no longer wonderful that this venerated man performed his duties to universal acceptance, when we discern the spirit, better far than the *genius* of Socrates, from which he asked counsel. The ancients would have said of him, that he lived in the presence of all the Deities, since prudence was never absent from him. The holders of a better faith must say, that it was to no poetical deity, nor to the counsels of his own mind, but to that "grace" which his supplications invoked, that he owed his protection from most of the lapses to which fallible man is subject.

That "remnant of life" to which his last memorial refers, unfortunately for us, was short as he had predicted; but he walked it as he had done all that went before, according to his devout aspiration. He continued to preside in the Supreme Court with his accustomed dignity and effect, until the succeeding winter, when his constitution finally gave way, and after a short confinement, on Monday, the 30th of

April, 1827, he closed his eyes forever. *It will be long, very long before we shall open ours, upon a wiser Judge, a sounder lawyer, a riper scholar, a purer man, or a truer gentleman.*

The *private life* of this eminent man, was the reflection of an unclouded mind, and of a conscience void of offence; and such external vicissitudes as marked it, did but ripen his virtues for their appropriate scene hereafter. The praise of his *public career is*, that it has been barren of those incidents which arrest the attention, by agitating the passions, of mankind. If it has grown into an unquestioned truth, that the poorest annals belong to those epochs which have been the richest in virtue and happiness, it may well be admitted that the best Judge for the people, is he who imperceptibly maintains them in their rights, and leaves few striking events for biography.

His course does not exhibit the magnificent variety of the ocean, sometimes uplifted to the skies, at others retiring into its darkest caves,—at one moment gay with the ensigns of power and wealth, and at another strewing its shores with the melancholy fragments of shipwreck;—but it is the equal current of a majestic river, which safely bears upon its bosom the riches of the land, and reads its history in the smiling cities and villages, that are reflected from its unvarying surface.

Such is the praise of the late Chief Justice Tilghman. He merited, by his public works and by his

private virtues, the respect and affection of his countrymen; and the best wish for his country and his office is, that his mantle may have fallen upon his successor.

The love of fame in the pursuit of either of the learned professions, upon the judicial seat, or in the field of battle, always stimulates the mind to the exertion of its faculties in the performance of those actions which are most likely to survive mortality, and live beyond the grave; and which, when faithfully achieved, render the evening of life as brilliant as its morning. And the ear which would be deaf to the sickly adulation of the insipid compliment will attend with pleasure to the noble enthusiasm with which Cicero exclaims, "why should we attempt to dissemble what it is impossible for us to conceal," why should we not be proud of confessing frankly that we all aspire to fame. True, "virtue as we have here exemplified, asks no other reward for all the toils and dangers, to which she is exposed, than that of fame and glory."

And now, in conclusion; studious and reflecting reader, suffer the author of this brief memoir, again to commend the high attainments of this excellent man to your veneration and esteem. Make them the model for your imitation in life; that you may like him, exhibit a cheerful resignation in the solemn moment

of death. For thou too, "shalt surely die," and "after this the judgment!" Having filled up the measure of your country's claim; accommodated yourself with all the comforts of this life, which are at best but frail and transitory, "acquaint now thyself with God and be at peace," then shall you learn to live here, follow the example of the pious and the good, and "set your affection on things above."

APPENDIX.

AN EULOGIUM

IN COMMEMORATION OF

DOCTOR CASPAR WISTAR,

LATE PRESIDENT OF THE AMERICAN PHILOSOPHICAL SOCIETY

HELD AT PHILADELPHIA.

BY THE HON. WILLIAM TILGHMAN,

CHIEF JUSTICE OF THE SUPREME COURT OF PENNSYLVANIA,

AND ONE OF THE VICE-PRESIDENTS OF THE

AMERICAN PHILOSOPHICAL SOCIETY.

.....

1818.

(A.)

EULOGIUM.

Gentlemen of the Philosophical Society,
Fellow-Citizens, Friends—

IF your wishes or mine had availed, we should not have been assembled on this solemn occasion. For, surely, never was life more earnestly desired, never death more sincerely regretted, than that of the excellent person, whose character I am called upon to delineate. Witness the alarm which pervaded the city, on the first intelligence of his illness—the friends who thronged his house, with anxious inquiries while hope remained, and departed in silent sorrow when the despairing bulletin announced the approaching crisis—Witness the long procession, which, through crowded streets, followed his mortal remains to their

last abode. But it was the will of God, that he should die, and to that will we submit. The American Philosophical Society, have not assembled, for the purpose of indulging rebellious murmurs or vain regrets. No—they better understand their duty. But deeply impressed with the merit of their deceased president, they have resolved, that his talents and his virtues shall be held up to public view. To him, indeed, this is now of no concern. The breath of praise, so sweet to the living, no longer reaches him. But in a world abounding in temptation, it is necessary that men should be stimulated to virtue, not only by the example of the dead, but by the hope of postumous honour. For, such is our nature, that we are powerfully incited by the desire of fame, even after death. It has been thought wise, therefore, by most nations, and particularly by the ancient republics, to pronounce Eulogies on the meritorious dead. If wise in them, it is no less so in us. Indeed, we have more need of this custom, than they; because, from the nature of our government, we have fewer artificial excitements to noble actions. We admit of no permanent honours, either personal or hereditary. But the ancient republics had both. We are not without danger of becoming too exclusively, the votaries of wealth, often acquired by sordid and ignoble

conduct. It behoves us, therefore, to counteract this overwhelming influence, by refusing it any weight in the estimation of character. This can be in no way better done, than by fixing a standard in which wealth shall be no ingredient. And in the formation of this standard, posthumous Eulogium will be a powerful engine. Wealth will no longer be thought praiseworthy, when it has ceased to be an object of praise. I am aware of the opinion of a celebrated Roman Historian, that this kind of eulogy, although productive of much good, had an evil tendency, in corrupting the truth of history. But this will depend on the use which is made of it. If employed for the purpose of lavishing indiscriminate, or unjust encomium, it will be an evil; if judiciously used, a good. By our Society, this honour has certainly been dispensed, not only with sound judgment, but with a frugal hand. We shall not be accused of corrupting historical integrity, when it is known that but three Eulogies have hitherto been pronounced by our order; and that the objects of these three were Franklin, Rittenhouse, and Priestley. Indeed, it has been the opinion of many, and particularly of him, whose virtues we are about to commemorate, that we have been too sparing of *just applause*. At the last meeting of the Society which he attended, he expressed

his regret that many of our associates had been suffered to sink into unmerited oblivion. In this sentiment he was perfectly disinterested; for he was then in full possession of health and spirits, little thinking that at the very next meeting, his brethren would be occupied with the mournful care of decreeing to him that honour of which he was worthy in the judgment of all. I much fear that I shall be unable to do him justice. Indeed, when I reflect that he was eminent in a profession, of which I pretend not to be a competent judge, I feel conscious that the honourable task assigned to me would have been better performed by several distinguished members who have moved in the same sphere. In one qualification, however I am not deficient—in zeal for the memory of a man whom I loved and admired. At all events, I felt myself obliged to obey the will of the Society, and trusting to their candour, I shall endeavour faithfully to portray the character of our departed brother.

Doctor Caspar Wistar had the good fortune to descend from ancestors in whom he beheld examples worthy of imitation. His paternal grandfather, Caspar Wistar, emigrated from the dominions of the Elector Palatine of Germany, and arrived at Philadelphia in the year 1717. He was a man of strong intellect, and applied his life to useful purposes. By

his exertions was established in New Jersey, about thirty miles from Philadelphia, a manufacture of glass, supposed to have been the first in North America. His maternal grandfather, Bartholomew Wyatt, emigrated from England with his wife, not long after William Penn commenced the settlement of Pennsylvania. He lived not far from Salem in New Jersey, and was active and distinguished in the affairs of his day, both civil and religious. His father was remarked for firmness of character, and paid particular attention to the morals and religion of his children.

Wistar himself was born in Philadelphia, the 13th of September, 1761. As his parents and ancestors, on both sides, were of the religious Society of Friends, he was brought up in their principles, and received his classical education, at a school established by them in this city. I have been able to discover nothing very uncommon in his juvenile character. In quickness of apprehension he was surpassed by several of his companions; but what he undertook he never failed to accomplish by perseverance. That he was a good scholar, may be inferred from the knowledge of the Greek and Latin languages, which he was afterwards known to posses. Until the age of sixteen, his faculties were expanding; but the peculiar cast of his genius had not been de-

veloped. About that period occurred an event, which called forth the ruling passion, and decided his fate. This event was the battle of Germantown, in the year 1777. His religious principles kept him out of battle, but his humanity led him to seek the wounded soldier, and he was active in assisting those who were administering relief. His benevolent heart was affected by their sufferings; and so deeply was he struck with the happy effects of the medical art, that he determined to devote his life to a profession formed to alleviate the miseries of mankind. Conquerors and heroes—ye who delight in the shout of battle, and exult in the crimson field of victory, contemplate the feelings of this young man, and blush at the contrast! But let us adore the mercy of God, whose mysterious Providence produces good from evil. From the decay of matter, springs up the green herb and the purple flower. From the disasters of Germantown, arises a youth, destined to bind up the wounds of many, and to send forth from his instructive school, thousands of hands, to open the fountains of health throughout the land.

Firm in his purpose, Wistar applied himself to the study of medicine, under Docctor John Redman, a very respectable physician of this city, formerly President of the College of Physicians, with whom

he remained upwards of three years. During the last year he attended also the practice of Doctor John Jones, an eminent surgeon, who had left New York, in consequence of its occupation by the British army. It was the fortune of Wistar, to gain the esteem of all his preceptors; an infallible mark of his own good conduct. The friendship of two such men as Redman and Jones, was a valuable acquisition; and from that of Jones in particular, very important consequences resulted. Having gone through the usual course of study, and attended the medical lectures, Wistar offered himself in the year 1782, as a candidate for the degrees of Bachelor of Medicine, in the University of Pennsylvania. Previous to the obtaining of this honour, he underwent an examination in the presence of the trustees of the University. It is said that he acquitted himself, on that occasion, in an extraordinary manner: answering the questions proposed to him, with such uncommon promptness and precision, as excited the surprize, and commanded the admiration of all who heard him. There was a singularity in this examination of which I have been informed by a gentleman who was present. The faculty of medicine were not all of one theory, and each professor examined with an eye to his own system; of this Wistar was aware, and had the ad-

dress to answer each to his complete satisfaction, in his own way. Of course the degree was conferred on him.

Instead of entering immediately into the practice of medicine, he determined to avail himself of the advantages to be found in the schools of London and Edinburgh, at that time the first in the world. In this, he displayed his usual judgment. It has been remarked that, with few exceptions, those who have been great in the learned professions, have abstained from practice at an early age. The cause is obvious. The elements of science lie too deep to be attained, without long and patient thought. The mind requires retirement and tranquility, to exert its powers of reflection to their full extent. But these are incompatible with the bustle, the anxiety, the agitation of active life. There was another reason too, formerly of great weight, though not so now, for finishing a medical education in Europe. Our own schools were in their infancy, and he who had been initiated in others of so much greater celebrity, carried with him a splendour, reflected from the masters under whom he had studied. This had appeared in Morgan, Shippen, Kuhn, and Rush, too plainly to be overlooked by the searching eyes of Wistar. Accordingly he went to England, in October, 1783.

The air of London was unfavourable to his health, which compelled him to make frequent excursions into the country. But no time was lost by these excursions. His investigating mind was busily employed in acquiring knowledge of various kinds; and his familiar letters, during his abode in England, to his friends in America, gave promise of that devoted attachment to science, for which his character was afterwards distinguished.

Having remained a year in England, he repaired to Edinburgh, where he passed his time, not like many young men, in frivolous or vicious amusements; but in study, in attending lectures, in cultivating the friendship of distinguished persons. To act a part like this, requires no small share of good sense and resolution. But to understand the merit of Wistar, it should be known, that in consequence of his father's death, he was easy in his fortune, and uncontrolled master of his actions. Great is the danger to which youth is exposed in populous cities. To each is offered the choice of Hercules. The paths of pleasure and of virtue lie open before them. False steps are not easily retraced; for the diverging paths grow wider and wider asunder, until they terminate in the opposite extremes of infamy and honour.

Always intent on improving his opportunities, he

made a journey on foot, in October, 1785, in company with Charles Throgmorton, Esq. and Mr. Ellcock, of Dublin, through part of the Highlands of Scotland, and visited Glasgow, Inverary, and Inverness. His character was now rising rapidly at Edinburgh. That he enjoyed the esteem of the great Cullen, appears by a letter dated January, 1786. For two successive years he was elected one of the Presidents of the Royal Medical Society of Edinburgh. He was elected also President of the society, "for the further investigation of natural history." These honours, conferred by a great, a learned, and a proud nation, on a youth, a stranger, one whose country had but just risen into existence, are the surest testimonies of uncommon merit. We contemplate them not only with pleasure, but with pride. Their lustre is reflected from the man to the country which gave him birth.

About the year 1785, he was received into the house of Doctor Charles Stewart, a most respectable Physician of Edinburgh, with whom he lived during the remainder of the time that he spent in that city. Of this favour he was highly sensible. He always remembered it with gratitude, and spoke of it with pleasure.

In June, 1786, he took his degree of Doctor of Medicine in the University of Edinburgh; his Inaugu-

ral Dissertation, "*de Animo Demisso*" is dedicated to Dr. Frankin and Doctor Cullen; the one, at the head of philosophy in his own country, the other flourishing in Scotland in medical fame. Towards the end of the year 1786, he took leave of Edinburgh, leaving behind him a name long remembered. This is testified by his countrymen who visited that city many years after. His fame flew before him to his native city, where he arrived in January 1787, after an absence of more than three years.

He was now about to enter upon a new and more important scene. Hitherto he had spent his time in preparation. A considerable portion of life had passed away. It was time to be useful—This was the object of his labours, the wish of his heart. He had formed to himself a sublime idea of his profession. Medicine he considered as an art by which an individual may be a benefactor to the universe, and confer blessings on unborn generations. To this elevation of mind he owed his eminence. For who would submit to the toils and privations which lead to greatness, without exalted ideas of the prize?

With talents matured, his mind enriched with the fruits of study and experience, he now engaged in the practice of medicine with every advantage. His friends were numerous, and his fellow-citizens in

general disposed to confide in him. Nor was their confidence disappointed. His old friend and preceptor, Doctor Jones, took the most delicate means of affording him an opportunity of making himself known. This was all he wanted. His works spoke for themselves. His mind was eminently formed for a profession, in which precipitancy is danger, and mistake is death. No man ever performed his duty to his patients with more scrupulous integrity. He spared no pains in collecting all the symptoms from which the disease might be ascertained. His visits were long, his questions numerous and minute. He paused before he decided, but was seldom wrong—and his mind once satisfied, he was not easily moved from his purpose. In consultation with his brethren he was courteous and attentive; never overbearing, but always stating, with modest firmness, the result of his own reflections. His patients he never failed to attach to him. How indeed could it be otherwise, when to the sedulous attentions of a Physician, was added the sympathy and anxiety of a friend. Though much given to hospitality, he never neglected the duties of his profession. Being eminent, both in medicine, and surgery, his practice soon became so extensive, that he was in the habit of walking ten miles daily. He would often rise from the convivial table

to visit his patients, and request his friends to remain with his family until his return. Yet the pleasure of pleasing others seemed an antidote to fatigue, and enabled him, generally, to be the most animated of the company. To a man thus acting, success is certain. Fortune, who intoxicates the weak, had no power over his steady mind. He knew that nothing is stationary in life. No man continues great without continued labour. All nature is in motion; and he who does not advance, will surely recede. By unremitted exertions, he always kept the ground he had gained, and still pressed forward to the pinnacle of his profession. His labours were sweetened with reward, and his spirit cheered with public favour.

In the year 1787, he was appointed Physician to the Philadelphia Dispensary, a useful and charitable institution then recently established. In the same year he was elected a member of the college of Physicians, and of our society. In 1788, to his other good fortune was added domestic happiness, by his marriage with his first wife, Isabella Marshall, daughter of Christopher Marshall of this city. In 1789 he was elected professor of Chymistry in the "college of Philadelphia." This appointment he did not accept without great hesitation. Philadelphia had then the misfortune to be divided between two rival schools; the

faculty of medicine of the College and that of the University of Pennsylvania. He saw and lamented the consequences of this division. It was his wish to unite, in one great institution, the talents of the city. But finding that the period of union had not yet arrived, he accepted the professorship offered him by the College, in order to preserve an influence, to be exerted at the proper season, and in this purpose he was not disappointed; for he had the satisfaction of contributing largely to the much desired union, which was afterwards effected.

In 1790, he was struck with affliction, in the loss of a wife whom he tenderly loved. This severe misfortune, he bore like a Christian, who feels calamity, but submits to the dispensations of Providence. Resignation to the will of the Almighty, and an active discharge of worldly duties, are the only sources of consolation, in afflictions like this. These were the resources of Wistar. He did not then foresee, that great as it was, this loss would one day be repaired by a companion no less worthy of his affection than the one he so justly mourned.

In the memorable summer of 1793, when the Physicians were the forlorn hope which stood between the pestilence and the people, he had nearly lost his life —he did not escape the awful visitation, but was for-

tunate enough to recover from it. In the autumn of the same year, he was chosen Physician to the Pennsylvania Hospital. In that celebrated institution, his services were principally in the department of surgery, where he found ample scope for the exercise of his humanity. I have been assured, from unquestionable authority, that in attendance on the sick, he knew no difference between the rich and the poor. It requires no small knowledge of the human heart, no little experience in the business of the world, to appreciate this trait of character according to its real value. It is easy to applaud the conduct of the *good Samaritan*—we all do it—and the Priest and the Levite, had they heard the parable, would have done the same. But when brought to the test, they cast their eyes on the wounded traveller and passed by.

The Rival Faculties of medicine being united in the University of Pennsylvania, Wistar was elected, in January 1792, adjunct Professor of anatomy, midwifery, and surgery, with the late Doctor Wm. Shippen, one of the fathers of the medical school. Surgery and midwifery were afterwards erected into several professorships; Shippen and Wistar retained anatomy, and on the death of Shippen, in 1808, Wistar was placed, as sole Professor in the anatomical chair.

It was here that the scene of his greatest excellence was exhibited. In many departments of science he was conspicuous, but here pre-eminent. Here he exerted all his genius and strained every faculty of his mind. His heart and soul were in the object. No pains, no money were spared, to render the lecture complete—and he succeeded; for in the opinion of able judges, he might well bear a comparison with the most celebrated Professors in existence. In language he was sufficiently fluent, and when a little excied, even eloquent, and by happy allusions to agreeable objects he contrived to scatter flowers over a field, not naturally of an inviting aspect. But his great aim was to render his demonstrations perfectly intelligible, and this he always accomplished by dwelling upon his subject, until he perceived that it was clearly understood by his pupils. In the communication of his ideas he had a facility never attained but by great masters. Too much praise cannot be given him for the liberality with which he provided the necessary apparatus. His expenses in procuring every kind of drawing or model which could represent the various parts of the human body, were greater than can be conceived by those who have not been informed. The increase of his class keeping pace with the fame of the Professor, it was found impossible to de-

monstrate to several hundred students at once, the structure of all the minute organs. He had recourse, therefore, to models, which gave an exact representation of the small parts of the human structure on a magnified scale. This was not an original idea of Wistar; but he extended this mode of instruction so far beyond any thing which had been before practised, and its effects, under his lessons, were so luminous and happy, that we can scarce withhold from him the merit of invention. There was another peculiarity in his course of lectures, which should not pass unnoticed. The general class was divided into a number of sub-classes, each of which he supplied, at his own expense, with materials for acquiring a thorough acquaintance with the human skeleton; a subject, which is allowed by all to be the foundation of anatomical knowledge. With all these advantages, a student, who diligently attended his lectures, could scarce fail to become an anatomist.

He published a few years ago, a System of Anatomy adapted to the use of students, the character of which, I shall give, in words better than my own, obligingly communicated by a professor of our medical faculty.* "It is a model for an elementary work.

* Doctor Dorsey, Professor of Materia Medica.

"The style is simple, plain, intelligible—the descrip-
"tions brief and accurate—the arrangement lucid,
"and the whole work altogether worthy of his talents.
"However numerous the writings of anatomists, I
"have no hesitation in declaring this by far the most
"easily understood, and by far the best fitted for the
"purposes intended."

Anatomy has been so much studied both by the ancients and moderns, and so many excellent works have been published on the subject, that any discovery, at this time of day, was scarcely to be expected. Yet, it is supposed to be without doubt, that Wistar was the first who observed and described the posterior portion of the ethmoid bone in its most perfect state, viz. with the triangular bones attached to it. Of this he has given an accurate description in the volume of our Transactions now in the press. On the subject of that discovery he received, a few days before his death, a letter from Professor Sœmmering, of the kingdom of Bavaria, one of the most celebrated anatomists in Europe, of which the following is an extract: "The neat specimen of the sphenoid and eth-
"moid bones, are an invaluable addition to my ana-
"tomical collection, having never seen them myself,
"in such a perfect state. I shall now be very atten-
"tive to examine these processes of the ethmoid bone

"in children of two years of age, being fully per-
"suaded Mr. Bertin had never met with them of
"such a considerable size, nor of such peculiar
"structure."

By the class of medical students Wistar was universally loved and respected. It has been said, that during the period of his lectures, they increased in number from one to five hundred. To ascribe this prodigious increase to him alone, would be doing injustice to the dead. Let me not adorn his recent grave with laurels torn from the tombs of others. But without violating that modesty which he loved, I may be permitted to say, that no individual contributed more than he, to raise the school to its present eminence. The institution, it must not be dissembled, has received a rude shock in the loss of this invaluable Professor. And this reflection is the more serious, when we take a short retrospect. A few years have robbed us of Shippen, and Woodhouse, and Rush, and Barton, and Kuhn. And now Wistar is gone, the last of that old school, by whose labours the fabrick has been reared so high. But I do not dispair. Our loss, although great, is not irreparable. Not that a Professor is to be expected, who can at once fill the vacant chair with all the splendour of his predecessor—but by treading in his

footsteps, and following his example, we may flatter ourselves, that ere long his successor will approach if not equal his excellence. Among the other Professors are still to be found unrivalled talents, and as a body, they merit and possess the public confidence. They will exert all their powers to keep the lead which has been taken in the medical field.

Far from their breasts be the ignoble passions of jealousy or envy. But every nerve must be strained in the noble race of generous emulation. Nor have we any fears for the event. They have the start, and we trust, they will be first in at the gaol.

In December 1798, Wistar married the amiable lady who now laments his loss—Elizabeth Mifflin, niece of the late governor Mifflin. Of his first marriage there is no issue. In his last he was blessed with many children, only three of whom remain.

In the year 1809, knowing the prejudices that obstructed the progress of vaccination, he suggested the plan of a society for circulating the benefit of that noble discovery which has immortalised Jenner. And in this he had the pleasure of finding himself seconded by a number of public spirited gentlemen, who associated themselves for that useful purpose—so great has been their success, that by their means, upwards of eleven thousand persons had been vaccinated in

this city and liberties, and the district of Southwark, previous to their annual report in January last—nor is that all—for, encouraged by their examples the corporation have generously provided by law for the gratuitous vaccination of the poor in the city.

In May 1810, he resigned his office of physician to the Hospital. In what estimation he was held by the managers, will best appear by their own resolution, entered on their minutes. "The conclusion of "Dr. Wistar, to withdraw at the present time, was "unexpected and very much regretted by the mana- "gers who would have gladly embraced the oppor- "tunity of giving to a long-tried, experienced, and "faithful practitioner, a further proof of their confi- "dence in his skill and abilities, by re-electing him "to the office he has filled more than sixteen years "successively, with great reputation, if he had not "prevented them, by declining to serve any longer. "Under these impressions, the managers reluctantly "part with Dr. Wistar, being thankful for his past "exertions to serve the institution, and for his kind "offers to advise and assist, if there shall be any "particular reason to require it, on any future oc- "casion."

In July 1794, he was appointed one of the censors of "the College of Physicians." a very learned in-

corporated society—which office he retained to the time of his death.

Having taken a view of his public and private services as a physician, let us now consider him as a man of general science and literature. His classical learning, gained at school, was much enlarged by subsequent reading. He became an excellent scholar. The Latin, he understood so well, as occasionally to hold conversations in it. He acquired enough of the French language to converse without difficulty, and was well acquainted with the German. In the character of an accomplished physician, is combined a variety of sciences. Anatomy was Wistar's fort, but he was well versed in Chymistry, Botany, Mineralogy, and History, in all its branches. As appurtenant to his profession, he had reflected deeply on the human mind. Its connexion with the body, the manner of its being acted on by matter, and the cure of its maladies, he considered as desiderata in medicine. That these objects had engaged much of his thought, is evident. For, when a student at Edinburgh, I find that he proposed questions concerning them, to Doctor Cullen; his Thesis, "de Animo Demisso," shows the same train of thinking, and in the last valedictory address to his pupils, he exhorts them to investigate the sub-

ject, and to make themselves familiar with the writings of Locke, Hartley, Priestley, and Reid.

As an author, he has not left much behind him. He sometimes wrote anonymous essays which were published in the papers of the day, and others which had his signature, appeared in the Transactions of the College of Physicians, and in the printed volumes of our Transactions. Among the latter is a paper in which are detailed some very curious experiments on the evaporation of ice. This subject has been since ably developed by others, but it is believed that Wistar was among the first who attracted to that object the attention of the public. His most considerable work is his system of Anatomy. Great literary works are not to be accomplished, without more leisure than is allowed to men engaged in extensive professional business. Yet such persons may do much for the promotion of literature. And this was the case with Wistar. What he could himself, he did, and encouraged others to do more, who had more opportunity. His ardent zeal for science made him anxious to promote it by all means and on all occasions. His house was open to men of learning, both citizens and strangers; and there is no doubt that at the weekly meetings, which took place under his hospitable roof, were originated many plans for the advance-

ment of science, which were afterwards carried into happy effect. In consequence of ill health, he had been for some years gradually retiring from the practice of medicine, and had his life been spared a little longer, he would probably have confined himself to his lectures, and indulged those studies, which he loved, and for which he would then have found leisure. He had completed the Biography of his friend and colleague, Dr. Shippen, and had it in contemplation to write a Memoir on the life of the late professor Barton. He was industriously inquiring into the natural history of our western country, and had commenced a collection of subjects for the investigation of Comparative Anatomy, to which he was incited by his friend Correa da Serra, whose name is identified with science both in Europe and America. He had been accustomed to correspond with men of distinguished talents, both at home and abroad. Among these are found the names of Humboldt and Sœmmering, in Germany; Camper, in Holland; Michaud, in France; Sylvester, in Geneva; Doctor Pole and Doctor Thomas C. Hope, in Great Britain; and in the United States, of the late president Jefferson, Correa da Sarra, Warren, and most others conspicuous in literature. In 1815, he was elected an honorary member of the Literary and Phi-

losophical Society of New York, and the same honour was conferred on him by other Literary Institutions.

In the year 1795, he was elected Vice-President of our society, and in 1815, on the resignation of Mr. Jefferson, he succeeded to the chair of his illustrious friend. I need not call to your recollection with what propriety, what decorum, what suavity of manners, he discharged the duties of this honourable station. Such was his courtesy, that he seemed anxious even to divest himself of that superiority, which the order of business rendered necessary. He was assiduous in attending committees. He was one of the first and most strenuous supporters of the Historical and Literary Committee, instituted by the society about two years ago. With what ardour did he excite them to industry, in collecting, ere too late, the fleeting materials of American History? The meetings of this committee he regularly attended. It was their custom, after the business of the evening was concluded, to enter into an unrestrained conversation on literary subjects. There, without intending it, our lamented friend would insensibly take the lead; and so interesting were his anecdotes, and so just his remarks, that drawing close to the dying embers, we often forgot the lapse of time, until warned by the un-

welcome clock, that we had entered on another day. To the business of the society in general, he was always attentive, and his zeal for its interest could not be surpassed. Considering his conduct in every point of view, I may truly say that he gave universal satisfaction.

The understanding of Wistar was rather strong than brilliant. Truth was its object. His mind was patient of labour, curious in research, clear, although not rapid in perception, and sure in judgment. What is gained with toil is not easily lost. His information was remarkably accurate, and his tenacious memory held fast what it had once embraced. In youth he had given some time to poetry, and in maturer age he had not lost his taste for it. His favourite poets were Pope and Milton. Among those of more modern date, he preferred Cowper and Burns. But the inclination of his genius was decidedly for graver studies. Of time, and nothing else, he was avaricious. As he rode in a carriage he often read, and when confined by sickness, he was fond of being read to by his family. But on such occasions he chose his book, which was always on some useful subject. On its being once proposed to him to hear a celebrated novel which had just came out, he rejected it, declaring, as he had often done before, that

to listen to works of mere fiction, was little better than loss of time. He had ranged over most of the objects of nature, in all her varieties; but next to his profession, the subjects in which he seemed most to delight, were the history and productions of America. To have been born an American, he esteemed a blessing, and to possess a knowledge of all her resources and advantages seemed to him a duty which he owed to himself and his country.

It remains to consider our deceased associate as a private citizen and a man. Public office he neither held nor sought, although enjoying the affection of him whose favour was fortune. This disinterested friendship does honour to both. To the liberty of his country he was firmly and warmly attached. Concerning the defence of liberty against foreign aggression, there can be no difference of opinion. But when the question is, how best to preserve it by our own Institutions, we are agitated by frightful discord. In such circumstances, it is not only the right but the duty of every man to speak his sentiments with candour and firmness; never forgetting, that to err is human, and that he himself, or his friend who opposes him may be mistaken, without blame. Such was the conduct of Wistar, who preserved his principles, without sacrificing his friendships. His opinions, on

all subjects, carried deserved weight. I owe it to candour, therefore, to say, that I have always understood he agreed in sentiment with those who have held the government, since the presidency of Mr. Adams. But the harmony in which he lived with friends of both parties, and the respect and affection which friends of both parties entertained for him, afford a memorable example, well worthy the serious reflection of those who suppose that political intolerance is essential to political integrity.

I turn with pleasure from the field of politics to objects of a more delightful nature; the piety, the goodness, the philanthropy of our lamented friend. Vain is the splendour of genius without the virtues of the heart. No man who is not *good* deserves the name of *wise*. In the language of scripture, folly and wickedness are the same; not only because vicious habits do really corrupt and darken the understanding, but because it is no small degree of folly to be ignorant that *the chief good of man is to know the will of his Creator and do it.* Wistar lived and died in the religious principles of those who have adopted the modest and endearing name of *Friends.* The people of this respectable society have preserved more of ancient simplicity in dress and manners, than any among us. They once outnumbered all other re-

ligious societies in Pennsylvania. But although that has long ceased to be the case, yet, fortunately for us, they are still powerful enough to exert a silent influence, checking the overflowing tide of luxury, which threatens to deluge the land.

It is difficult for a physician to be punctual in attendance on public worship. But if Wistar was not punctual, it was not because he was insensible of the duty, but because he was called by other duties to the assistance of his fellow mortals in another place. He, therefore, desired that his family should be regular in attendance at meeting, and he himself went when the situation of his patients permitted. In his devotion, as in every thing else, he was void of ostentation. But that his mind dwelt much on that important object, I can have no manner of doubt. When a youth, at Edinburgh, his friend, Dr. Charles Stewart, made him a present of a neat edition of the Bible, in two small volumes. These he carefully preserved to the day of his death; and it was his custom, when he travelled, always to take one of them with him. This circumstance was well known to his children, the eldest of whom frequently accompanied him in his excursions, and could not fail to impress on their tender minds, a veneration for the book which their father so highly prized.

It has been asserted that the study of natural philosophy tends to infidelity and even to atheism. To plead the cause of philosophy before this society would be worse than waste of time. But as we are honoured with the presence of numerous strangers, it may not be improper to say a few words in answer to this popular objection. It is not foreign to my subject; because, if there be truth in the assertion, instead of recommending our late president, as an example worthy of imitation, we should point him out as a delusive meteor, whose false light might lead the unwary to the pit of destruction. I shall say but little; for were I to permit myself to enlarge on the boundless subject, I should soon exhaust my own strength and your patience. In the sacred scripture, the repository of the revealed will of the Deity, we find it written, that God has not left himself without witness among the heathen; that is to say, his visible works bear witness to his existence and his attributes. And it is most true. The most barbarous nations are struck with the evidence, and acknowledge the existence of a power superior to man. But those stupendous works, which, in silent majesty, proclaim their Maker, do not disclose half their testimony to an ignorant observer. Nay, if not understood, there is danger of being misled by them. The untutored

savage beholds the splendour of the sun, and perceives that from the warmth of its rays proceeds the growth of the innumerable vegetables which give beauty and comfort to the world. Ignorant of its nature, he considers it as an intelligent being, and worships it as a God. What would be his sensations, could the darkness of his mind be instantaneously illumined by philosophy; how great his surprise at perceiving that this resplendent orb, the object of his adoration, was no more sensible than the brute earth on which he trod? With what astonishment, and gratitude, and awe, would he contemplate that great Being who fixed the sun in his orbit, and clothed it with light? If we pass from the savage to civilized man, the effects of increased knowledge will be of the same nature. The most ignorant among us understand that the sun was created by God. To every one, therefore, it is a mighty witness of the existence and power of its Maker. But thousands and thousands see nothing in the sun, but the source of light and heat. Suppose now, their minds to be endowed with the knowledge of all its wonderful power—Suppose them to view it as the centre round which revolve, in rapid and ceaseless motion, the immense bodies which form the planetary system, all bound, by its attractive force, to one immutable path through the trackless void—

Suppose them, moreover to be informed, that the countless stars which bespangle the firmament, are probably other suns, enlightening and supporting other systems of inhabited worlds!—Suppose, I say, the mass of mankind to have ideas like these, would not the celestial bodies, to them bear stronger testimony of the mighty God? And exactly the same argument is applicable to every thing animate and inanimate in this terrestrial globe—from intelligent man to the scarce moving shellfish—from the towering oak to the twining ivy—from the sparkling diamond to the dusky coal—from the massy rock to the fine sand—from the troubled ocean to the glistening dew-drop—from the loud tornado to the whispering zephyr—whatever floats in air, or swims in water, or rests on its unfathomed bed—whatever flourishes on earth's green surface, or lies hid in her capacious bosom—all the elements of matter, with their unnumbered varieties—all, all bear witness to their almighty Maker, and witness stronger and stronger as they are better and better understood—for every thing is perfect, every thing miracle. How then can it be that as evidence increases faith should diminish? The thing is impossible. When the understanding is convinced, it is not in human power to withhold belief. But, it has been said, that the pride of man

perverts his understanding—that, intoxicated with his own little discoveries, he forgets his Maker, and with the fool, says in his heart, *there is no God.* In theory this is not true; nor is it in fact. That there are melancholy instances of extraordinary intellect destroyed by intense study, is not to be denied. And candour would ascribe to that cause, the atheism attributed, perhaps unjustly, to a late celebrated French astronomer. But such cases are rare. On the contrary, the instances are without number, where reason has maintained her seat, and the belief in God has been confirmed. To give the highest examples at once, I shall mention Newton in England, and our own Rittenhouse, whose minds the mighty Maker of the universe seems to have touched with celestial fire, in order that they might unfold his works and render their testimony plain and irresistible. Nor is it true, that knowledge begets pride. This is proved by the two great men I have named, as remarkable for modesty as for depth of science. It is only the half learned who are insolent. They are proud, because they are ignorant. But the truly wise are most sensible of their own imperfection. They prostrate themselves before that supreme incomprehensible Being, whose nature the aching senses in vain endeavour to penetrate; and, when it pleases him to re-

veal himself, they receive with humility and gratitude those truths which human understanding could never have attained. Away then with the ungenerous aspersion, and let bigotry confess that the door of true philosophy opens directly into the temple of true religion.

To Wistar, philosophy was the handmaid of religion—she elevated his soul and warmed his affections.

After loving God with all our heart, the next great commandment is to love our neighbour as ourself. Were I asked to point out the most prominent feature in Wistar's character, I should answer, without hesitation, benevolence. It was a feeling which seems never to have forsaken him, beginning, as it ought, with his own family, and extending to the whole human race. Nor was it that useless sympathy which contents itself with its own sensations. His chasity was active, his hand ever seconding the feelings of his heart. Next to religious obligations, and the inviolable sanctity of truth, he impressed on the minds of his children the duty of abstaining from wounding the feelings of any human being. And he made them frequently repeat the precept of our Saviour, "love one another." Even his person gave evidence of philanthropy—his eye beamed good will, and his

whole air brought strongly to my mind what Tacitus says in his description of Agricola: "at first sight you would have believed him to be good, and wished him to be great." This ruling sentiment threw grace over his actions, and inspired his conversation with a charm. He never assumed—never displayed his own superiority. On the contrary, he led the conversation to subjects in which others excelled. The pedantry of technical language he despised, and listened, with patience and politeness, to the observations of inferior understanding. It has been observed that there is no book so dull but something good may be extracted from it. Wistar applied this principle to men, and possessed the remarkable talent of drawing from every one some useful information. From a young man, much attached to him, who had an opportunity of knowing him well,* I have received the following description. "He was one of the purest republicans, both in conduct and conversation, "that I have ever known. No one was ever sensible, by his conduct, of any difference of rank; and "as regards conversation, he was as careful not to "oppress an ignorant neighbour by its abstruseness,

* Dr. Horner, who was employed by Dr. Wistar as an assistant in his Anatomical Lectures.

"as not to put an humble one out of countenance by "an air of superiority."

That the kindness of his manner had something uncommonly attractive, I can myself bear witness. My acquaintance with him commenced at a period of life when the heart no longer yields to the illusions of fancy. Yet, before I had time to be convinced of his goodness, I felt myself drawn towards him by an irresistable charm. I have taken pains to derive the character of this excellent man from authentic sources. One communication, from a very near female relation,* who knew his domestic habits, and even the secrets of his heart, I will give in the words I received it, which I should but injure by attempting to amend. "His domestic habits were uncommonly "mild and unassuming. Benevolence and charity "characterized all his actions. In the cause of his "friends he spared no exertion, either by day or by "night. His house was always open to them, and "the evening society, which frequently gathered "round him, was one of the greatest enjoyments of "his life. His extreme modesty makes it difficult to "particularize any act of his which ought to be men-"tioned; for, although to do good was his ruling

* Mrs. Bache, sister of Dr. Wistar.

"passion, his particular acts were rarely known, ex-
"cept to the persons immediately concerned. To
"merit his services was the sure passport to obtain
"them. In the cause of suffering humanity his feel-
"ings were always ardent. During his last illness,
"he recommended to a friend the cause of the abo-
"rigines of America; and the last sentence he was
"heard to pronounce, was, 'I wish well to all man-
"kind.' Disinterestedness characterized his life, and
"it may be doubted whether so extensive a practice
"ever yielded so little emolument."

On the death of Dr. Rush, Wistar succeeded him as president of the Society for the Abolition of Slavery. The object of this society was congenial to his mind. Considering the situation of the southern States, the subject is delicate. But, certainly, the introduction of slavery into our country is an event deeply to be lamented, and every wise man must wish for its gradual abolition.

For the Indians of America he seems to have felt a particular kindness. He admired their eloquence, lamented their desolating wars, and earnestly sought for the means of meliorating their condition. Having once inoculated an Indian woman for the small pox, her husband had fears for the event. Indeed there was some cause for fear, as the woman refused

to submit to the proper regimen. The anxiety of the Doctor was extreme. She recovered; but until the danger was over, he declared, that on no occasion had he been more oppressed with the responsibility of his profession.

The gratitude of Wistar was remarkable. Services done, or even intended, he always remembered; but injuries he was ready to forget. In a letter written at Edinburgh he declared, that he had determined to forgive every thing to a friend or near relation, and expressed his belief, that it would contribute greatly to happiness to extend forgiveness to every one. This sentiment gained strength with time, and at length ripened into a governing principle.

To say such a man was a dutiful son, a kind brother, a most affectionate husband and parent, would be matter of supererogation. In the loss of his children he was peculiarly unfortunate. To those who remained, he was passionately devoted. As the circle of affection lessened, its warmth increased.

But had he no failings, no infirmities? Undoubtedly he had, for he was a man. But I may truly say, that they fell not under my observation, and I trust I shall be excused if I have not been anxious to search for them.

His health, during the few last years, was interrupted by several alarming attacks. He was subject to great irregularities of pulse, and there was strong symptoms of disorder in the chest. A collection of water was apprehended. But the fact was, that a small ossification had taken place between two of the semi-lunar valves of the aorta. About the 14th of January last, he was seized with a malignant fever attended with symptoms of typhus. Art proved unavailing, and he sunk under the disease, after an illness of eight days.*

We have lost him in the strength of life and vigour of intellect—too soon indeed for his family and his country; but not too soon for his own happiness or fame. For, honourable age is not that which is measured by length of time, or counted by number of days. But wisdom is the grey hair unto man, and unspotted character is fulness of years. Protracted life would have been embittered by bodily pain—the frailties of nature might have dimmed the lustre of brighter years—or death, which had spared him, might have desolated his house, and left him solitary and cheerless to encounter the infirmities of age. Happy then wert thou, Wistar, in death as well as life.

* Dr. Wistar died 22d January, 1818.

Thy work is done—thou art gone to receive thy reward. Thou diedst in the full career of usefulness and fame—thy heart overflowing with charity—surrounded by friends, loving and beloved. Domestic affection watched over thy pillow, and thy parting looks rested on the objects dearest to thy soul. Death hath affixed to thy character the seal not intrusted to mortal hands. What though the strict equality of thy religious society forbid thy undistinguished ashes to be marked by even a modest stone, yet shall the good, hold thy virtues long in remembrance, and Science write thy name in her imperishable roll. The last generous emotion of thy benignant spirit, shall be reciprocated. All mankind shall wish happiness to him, who dying, wished happiness to all.

AN ADDRESS

DELIVERED BEFORE THE

PHILADELPHIA SOCIETY

FOR

PROMOTING AGRICULTURE.

BY THE HON. WILLIAM TILGHMAN,

CHIEF JUSTICE OF THE SUPREME COURT OF PENNSYLVANIA,

AND ONE OF THE VICE-PRESIDENTS

OF THE SOCIETY.

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1820.

(B.)

ADDRESS.

Gentlemen of the Agricultural Society.

WHEN you did me the honour of requesting me to deliver this Address, you did not expect that I should enter into minute details of the process of Agriculture. Such an attempt might expose my own ignorance, but could not add to your information. The object of our Society is *the promotion of Agriculture.* Whatever conduces to this end, either immediately or even remotely, is worthy of our attention, and within the scope of our Association. In this view of the subject, I perceive so wide a range, that there is less difficulty in finding objects, than in making a proper selection. To call forth the ex-

ertions of the Society its zeal must be excited. But zeal is not to be excited, without a conviction of the importance of the cause in which we are engaged. May I be permitted then, to declare my conviction, that amidst the profusion of Societies with which the present age abounds, there is none more useful, or more dignified, than that for the *promotion of Agriculture*. Indeed, in point of *utility*, I might justly say that it *precedes* all others. Because, even if mankind could exist without Agriculture, yet they could exist only in a savage state, and in small numbers. The great command "*increase and multiply*," could not be obeyed. There could be nothing worthy the name of art, or science, or literature. When I cast my eye on the map of Pennsylvania, and view the vast quantity of excellent land, in the rude state in which nature formed it, I am struck with astonishment at the multitudes which throng our cities, struggling with hunger, cold, and disease. Nor is my wonder confined to the lower orders of society. For I see many of liberal education, and with the means of acquiring a competency in the country, wasting their lives in disgraceful idleness, or fruitless efforts to force their way through the crowds which block up every avenue to profit or preferment. The flood of commerce which set upon our shores during five and

twenty years of war and disorder in Europe, has given to our cities a premature growth. In every branch of trade and commerce there are too many competitors. Labourers are too numerous. Every mechanic art, every liberal profession is overdone. Happy would it be for the city, and happy for the country, if any efforts of this Society could inspire a respect, and a taste, for an *art* in which no man need be ashamed to employ his faculties; for a *condition*, which after all, seems most congenial to the nature of man. It is a life, to which at one time or other, we all aspire. For who is there, that amidst the eager pursuits of wealth or ambition, does not sometimes pause, and console himself with the fond, though often fallacious hope, of passing his latter days in the independence, the ease, the plenty, the safety, and the innocence of the country! In Pennsylvania, young men of education would have peculiar advantages in spreading themselves through the country, for it is a fact (and we are every day feeling the effects of it) that in no state in the union, is education so much confined to towns. There are many inhabitants of this city, who hold extensive tracts of land, which neither they nor their children have ever seen. This is a bad state of things. For, through ignorance of the quality, the situation, and value of their lands,

these persons are sometimes a prey to speculators, and sometimes, erring on the contrary extreme, they conceive extravagant notions, and refuse to sell at a fair price. Hence Agriculture suffers—either the lands remain a desert, or they are occupied by poor intruders, who knowing the instability of their title, are afraid to attempt any valuable improvement. These people, with few exceptions, lead a wretched life, and are apt to imbibe sentiments hostile to the proprietors of the soil, whom they consider as natural enemies. Could the parties but see each other, very different feelings might prevail. A little kindness and condescension on the part of the proprietor might convert a discontented trespasser, into a useful tenant or purchaser. That this has happened in many instances, I know; which induces me to think, that were the trial made, it would happen in many more. Where large property of this kind, is in the hands of heads of families with several children, one or two of the sons might manage the estate to great advantage, by living on the spot. Agents are expensive, and often unfaithful. But one may confide in his own blood. Besides, the very circumstance of a well educated young man residing in any place, will naturally attract others of similar qualifications, to the same spot; and thus an agreeable society might be

formed, and great encouragement afforded to the labouring poor of the neighbourhood. In this kind of policy, the State of New-York has set us a good example. And the consequences of her conduct are obvious; a greater proportion of her lands is settled, and her unsettled lands, of equal quality, sell for a higher price than ours. Although the views of our society are not confined to the limits of the State, and our earnest wishes are for the prosperity of the whole, and every part of the Union, yet it may be considered as our duty to direct our attention more particularly to Pennsylvania. We cannot be accused then of acting with ungenerous policy, if we endeavour to promote the settlement of our own lands, in preference to those of our neighbours. We may, without impropriety, suggest all fair and honourable arguments, to convince the emigrants from the eastern States, and from Europe, that it is their interest to establish themselves here, rather than seek a residence in a distant country, to the west or the south. It is not my intention to enter deeply into this subject. It might be enough, to suggest to the Society, the utility of circulating good pamphlets, which have already been written, or may be written hereafter. But, one or two leading facts it may not be amiss to mention. The rich productions of the south, are not

to be attained, but by men of considerable capital. The object is tempting, but when offered to the consideration of emigrants from Europe, or our sister States to the eastward, they will remember, that the climate where rice, cotton, tobacco, indigo, and sugar flourish, is generally unfavourable to health; and that these articles are not to be cultivated to advantage without slaves. They have therefore to engage in a new kind of life, opposed to the habits and principles in which they have been educated, and which, however flattering the outset, will probably terminate, in an enfeebled body and discontented mind.

But the great class of emigrants, is that of people who have small capitals, and must seek their bread, by the labour of their own hands. To such persons, health is every thing. The lauguid eye of sickness dwells without pleasure, on the fairest prospects of nature. In vain is the fertile bottom, or the rich prairie, offered to the arm unnerved by disease. It is a notorious fact, that rich, low, level countries, are subject to fevers. They should therefore be shunned by those who are to live by their own labour. Another great inconvenience in those coun-countries is, that they are badly supplied with water, either for drinking or machinery. If, indeed, the lands in the western region, were extremely cheap,

and those in Pennsylvania at a price beyond the reach of a poor man, he must go to the west from necessity. But that is not the case,—our lands are believed to be as low priced, as those beyond the Ohio; and much more so, when there is taken into calculation (as there ought to be) the expense of the journey. Another important circumstance in our favour, is a much better market for the sale of our productions, and the purchase of necessary articles. This is important at all times, but peculiarly in war, when the Mississippi, the only inlet or outlet of the whole western country, may be blockaded by a hostile fleet.

Speaking of a hostile fleet, we are reminded of the necessity of a navy of our own, and of *Commerce*, without which a navy cannot exist. Let it not be supposed, that the interests of Agriculture and of Commerce are at variance. On the contrary, they are inseparable. Of this the Agriculturists of the United States have had good proof. No persons on earth have profited more by commerce. During the long wars of Europe, the staple productions of the middle States sold at double price, and those of the southern States were very high, both during the war and after. Those prices were produced, in part, by the influx of wealth, which occasioned an increased

consumption at home, and in part by exportation to foreign countries, but principally by the latter. Both causes however, sprang from commerce; and both, as long as commerce exists, will continue to operate in a greater or less degree. Indeed, if we could suppose a nation cut off from all intercourse with other nations, (that is, from all foreign commerce) that nation, though abounding in all the necessaries of life, would be barbarous, selfish, illiteral and ignorant. Neither let us give way to the idea, that either agriculture, or commerce, are incompatible with domestic manufactures. Unwise laws, may injure either one or the other, by unjust preferences; but under proper regulations, they will aid, and invigorate each other. This is not the place for entering into a disquisition of the degree of encouragement which should be afforded by law, to manufactures. That important subject is before the national legislature, where it will, no doubt, receive an impartial and mature consideration. But thus much may be said, with certainty; that it is the *duty* as well as the *interest*, of all of us, to use *our own*, in preference to *foreign* manufactures, where they can be furnished on reasonable terms. It cannot be denied, that manufactures afford a sure market, for the productions of the neighbouring country; and as they are multi-

plied, in the same ratio, are the markets increased. And there is a peculiar advantage in markets of this kind, at a distance from navigable waters; that, the consumption being at home, the expense of carriage is saved. But there is a kind of manufacture, *domestic in the strictest sense*, the benefit of which is inestimable; because while it adds to the *stock* of the family, it protects their *morals*—I allude to spinning, weaving, and such things as are done by the hands of the husband, the wife, or the children, without leaving their home. It guards them against *idleness*, that child of folly, and parent of vice, and is often clear gain, as it occupies those hours which would have been passed in inaction. I am afraid, that in this kind of industry, we have rather degenerated. A very respectable gentleman, a member of the Society of Friends, informed me, that about the year 1764, he attended a meeting in Chester county, near the borders of Maryland, and that most of his society in that neighbourhood, were cloathed *completely* and *handsomely* in dress of their own manufacture. Were he to visit that meeting now I doubt whether he would see his friends in the same kind of apparel. Yet meritorious examples are not wanting, even now, and I hope I shall be excused for mentioning one lately communicated to me. In the west-

ern part of Pennsylvania, on this side of the Alleghany river, lives a man, who, ten or twelve years ago, seated himself on a tract of land, to which he had no title, in the humble character of a *squatter.** This man has converted a wilderness into a fine farm; and, with the assistance of an industrious wife, brought up a large family of children. He raises on his farm, all the materials for clothing the family; and whatever they wear, of linen or woolen texture, excellent in their kinds, is spun, woven, and manufactured in the house. They also make their own sugar, from the maple; and their own leather: and *purchase* (or rather *barter* for) nothing but iron, and salt. Their farming utensils are chiefly home-made.—But what is more commendable than all (and perhaps the cause of all), *very little whiskey or ardent spirits, is drunk* by any of them. To finish the picture, I have to add, that the proprietor of the land, with views, no less *politic*, than *liberal*, has confirmed these good people, in their title, on moderate terms—so that this little story contains a moral, from which, both *settlers*, and *proprietors*, may profit.

It has been apprehended by some, that the late

* A term in use, in New-York and Pennsylvania, to denote a man who seats himself on land to which he has no title.

fall in the price of land, and its productions, would damp the ardour of cultivators, and deter men of capital from employing their funds in the purchase of real property. This apprehension appears to be ill founded. If the profits of farming have been diminished, so likewise have the profits of all other business; so that there is no particular reason for with-holding funds from an investment in land. We are in a state of distress, which I trust, will be but temporary; for the country has great resources, and sufficient knowledge to bring them into action. A stagnation of commerce was to be expected, on the cessation of the wars in Europe.* But this stagnation is not peculiar to America—she shares it in common with all the world—we have indeed, particular distress, arising from our own errors, on the subject of banks. An immoderate issue of bank paper, afforded an unhappy facility of borrowing. The money when borrowed, must be made use of in some way—many of the borrowers, having no good use for it, either trifled it away, in unnecessary expenses, or in the purchase

* In a letter of the late President Adams, published since the delivery of this address, he says he remembers that the like depression of commerce, manufactures and real estate, took place after the wars, which ended in 1748, 1763, and 1783.

of land, which soon rose, nominally, to twice its value. Such a state of things could not last long—the delusion is past. It is to be lamented, that many good people have been the victims of this infatuation; but we must comfort ourselves with the hope, that some good will result from it, if a cure is not attempted by rash and violent means. As a people, we had become too extravagant and too luxurious. The slow but sure progress of industry was despised. Every man was in haste to be rich, by some visionary project, dignified with the name of *speculation*. But we are now suffering for these follies, and by suffering, we shall be purified, and brought back to better habits. This will be a lasting good. Instead of desponding then, let us prosecute our business with increased vigour and economy, and we shall soon find, that although we have fewer paper dollars, we have more real wealth, and what is of much greater importance, better morals, and of course more happiness. A large capital is at present locked up, because the owners are in doubt how to employ it. When business shall flow in decided channels, this capital will be brought into activity. It is almost certain, that neither commerce, nor bank stock will be as profitable as they have been; so that there is a strong probability of an investment of a large capital, in real estate, which,

after all, possesses a stability unknown to any other kind of property.

But, it is in our own power, to increase the value of our lands by an improved state of Agriculture. Much has been done, but much more remains to be done. Though not at the bottom of the hill, we have not yet ascended half its height. It may be encouraging however to stop for a moment, and take a glance at the progress we have made. Before the war of the revolution, little of science was blended with the art of agriculture—things had gone on in their natural course. The counties first settled, now known by the names of Philadelphia, Delaware, Chester, Montgomery and Bucks, though not rich (except the meadows) were sufficient to yield good crops at first, and tolerable ones for a number of years. But the soil near the surface composed of vegetable substances accumulated during the lapse of ages, became at length exhausted by repeated tillage without refreshment. Red clover was introduced before the war, but it was produced in small quantities, and almost solely for the purpose of hay. The system of melioration by a rotation of crops, in which grass took its turn, was not understood. Natural meadow was in great demand, and not much hay being produced on the uplands, it was impossible to support during winter,

a stock sufficiently large to amass a great quantity of manure. Consequently the crops of grain, and particularly of wheat were much diminished. Indeed, the *wheat* crops were trifling. Gypsum had been imported, in small quantities before the revolution; but it was very little used, and very little talked of; and that little not to its credit, for an old proverb, said to have come from Germany, was brought up against it, *"that gypsum made rich fathers but poor sons."* Notwithstanding this prejudice, it was brought into general use, some years after the war, by the persevering efforts of a few, *and principally of the President of this Society,* to whom future generations will render thanks for this important service. Through the efficacy of this fossil, the face of the country experienced a magic change. The uplands were cloathed with rich herbage, to which succeeded plenteous crops of grain. I have not been able to trace with certainty, the progress of the cultivation of clover aided by gypsum, but I believe, that Philadelphia was the centre, from which it spread in all directions. In Chester county, so great were its effects, that (as I heard it proved in the trial of a cause at West Chester,) the price of lands was doubled in a few years. Nor is there any reason to suppose that it was less beneficial in other places.

But as the excess of even a good thing may be pernicious, so may it be with gypsum. That it promotes the growth of many vegetables, and of clover in particular, is certain; though its mode of operation does not seem to be clearly understood. An increased quantity of grass, will support an increased quantity of stock, from which will proceed an increased quantity of manure, and that should be considered as the great end of gypsum. Not that great advantages may not be derived from ploughing in the green clover. But if that is relied on, as the only mode of meliorating the soil, (and in some publications which I have seen, it is asserted to be quite sufficient) we shall probably be disappointed. In Sir John Sinclair's Code of Agriculture, it is said that the practice of ploughing in green vegetables, as a manure has been tried, in England, and found not to answer; and that more benefit is derived from those crops, when they are consumed by stock, and converted into dung; and Col. John Taylor (of Caroline county, Virginia) to whose valuable labours the world is so much indebted, is also of opinion, that we ought not to rely on green vegetables only. In the first edition of his *Arator*, he seemed to think, that nothing more was necessary than clover, but in the second edition, he acknowledged his error, which had been demonstrated by

the result of two crops of Indian corn. In 80 acres of land, improved by turning in the grass, without other manure, the crop averaged 25 bushels an acre. But in 200 acres, where the clover was turned in and the ground also manured, the average was 50 bushels. It is probable, indeed, that the ploughing in of clover, may have a greater effect in many parts of the United States, than in England. For, that large crops of grain have been produced by it, is so strongly attested, that it must not be denied. This may be owing to the superior efficacy of the gypsum, which, without doubt, acts more powerfully here, than generally in England, and therefore produces a greater quantity of clover. But, as it is certain, that the manure of dung, incorporated with putrefied vegetable matter, is more efficacious than simple green vegetables; what I intend, is to exhort our farmers not to trust to the latter alone, nor relax their efforts to collect the former in as great quantities as possible.

Another important circumstance is to be attended to. We are not to expect, that land will continue to produce luxuriant crops of clover, for ever, even when aided by gypsum.—It would be contrary to the order of nature; which delights in change. Our *second* crop of clover, has, for many years, been of litfle value, though the cause remains unexplained. A

gentleman of veracity, who lives on the Delaware, between eight and ten miles above the city, assured me, that gypsum, which had done wonders for a long time, had at length ceased to have any effect on his land; and that the same was the case of some of his neighbours. I am informed also, that the same remark has been made by farmers in Montgomery county. Now it is not to be supposed, that the gypsum has changed its nature, or lost its virtue.—But the earth, being exhausted of those particles which are favourable to the growth of clover, no longer offers to the gypsum the same matter to act upon. That the matter, necessary for the formation of a particular plant, may be exhausted, while the same earth suffices for the vigorous production of other plants, is proved by daily experience; and is in accordance with the best theory.

In a late English publication, there is an offer of a considerable premium to the person who shall discover a grass which shall be a good substitute for clover, it being understood, that clover no longer grew as formerly; and of another premium to the person who shall discover the means of restoring lands, which once bore clover, to a capacity of producing it again. It would, therefore, be wise in us, to look out in time, for some grass, to take the place of clover, when it

shall be found no longer to succeed. In the mean time, we may avail ourselves (and it may perhaps be a very long time) of the united efficacy of gypsum and clover.

I said that we had much to do before we attained that degree of perfection which was practicable in agriculture. I presume, that our lands, in their natural state, were full as good as those of England. In England, the average crops of grain of all kinds, on 8,000,000 of acres, are estimated at twenty-four bushels the acre. I take this estimate from Sir John Sinclair, who says, moreover, that in "fertile districts and propitious seasons, from thirty-two to forty bushels of wheat an acre, may be confidently expected; from forty-two to fifty of barley, from fifty-two to sixty-four of oats, and from twenty-eight to thirty-two of beans." The best county in Pennsylvania, is supposed to be Lancaster. The matter cannot be spoken of with any kind of certainty; but, from the best information I have been able to collect, I should doubt whether the *wheat* crops of the whole county of Lancaster, averaged more than fifteen bushels an acre, though many individual farmers get from twenty to thirty; and some from thirty to forty. But, when we compare the agriculture of two countries, we must take it in large masses. Penn's valley, in Pennsyl-

vania, is supposed to yield crops of *wheat*, averaging at least twenty bushels an acre; but that is owing to something peculiar in the climate; for the crops do not ripen in less than two weeks later than in most other parts of the state. The soil in Penn's valley, is limestone, and the water lies very deep.

There is no doubt, however, that the agriculture of Pennsylvania is steadily improving, and is at present actually improved as highly as that of any State in the Union. In buildings for agricultural purposes (perhaps too expensive) she is unrivalled; so that without being over sanguine, we may promise ourselves an annual increase in the value of our lands. How this progress may be quickened, is a question which this Society should keep constantly in view.—To devise the means of acceleration, should be their study.—To the first great step towards general improvement, the organization of societies in every part of the State, we have done what was in our power, by petitioning the legislature to take the subject into consideration, and aid the undertaking with the necessary funds—Nor is there any reason to doubt of success; for the legislature is always liberal when the general interest demands it. The institution of county societies, with the distribution of premiums, will be a powerful stimulus to the dormant faculties

of thousands. The Eastern States, including New-York, have already made the experiment with success; and I honour them for the example. Our Society, being situated in the capital, has the best means of correspondence; so that we can reciprocate information on agricultural subjects, with the different societies throughout this, and other states, and with countries beyond the sea. Hence will be collected a stock of knowledge, which being condensed and methodized, may be offered to the public with great advantage.

A pattern farm is an object we have long had at heart, and it is not to be relinquished. But the time is not come, for carrying our wishes into effect. At present we have not sufficient funds; and to incur a debt, in our corporate capacity, without the means of payment, would justly dishonour us. But the want of a pattern farm may be in some measure supplied, by the exertions of members of the society, who possess farms within a few miles of the city. Some of them, are blessed with ample means, as well as inclination, to give a fair trial to every improvement which can be rationally suggested, either in instruments of husbandry, the application of manures, or the cultivation of new plants, grains, or grasses.

We may render ourselves useful, by collecting and diffusing the information contained in books recently published in Europe or America. In Europe the principal nobility and gentry are paying due honours to Agriculture. Chemistry has been called to her aid, from which important discoveries must result. Earths, minerals, and manures of all kinds are analysed. Philosophy is in the right path. Facts are first ascertained, and then accounted for. The increased power of magnifying glasses, lays open the hidden parts of plants, and minute animals. Hence may be discovered the *causes* and consequently the *cure*, of many disorders by which plants are infested. Already it is asserted, (I vouch not for the truth of it) that the disease in wheat called the *smut*, is no other than a parasite plant, which adhering to the seed-wheat, grows with it, and may be destroyed by proper applications, before the seed is sown. Perhaps some fortunate observer may let us into the nature of that scourge of Agriculture, known by the name of the Hessian fly, so that we may get rid of it, as we did of the weavel fly, some forty years ago. Such a man would deserve a statue of gold, and I think the farmers would gladly erect it.

Another point of duty, to which we have not been wanting, is the importation of such foreign grains, grasses, and plants, as are suitable to our climate.

Of all the grains which now grow in the middle States, I recollect none, but maize, (Indian corn) which is native. Perhaps we have not yet collected all which might be profitably cultivated; and even if we have, a change of seed is of great importance. What wealth has flowed into the southern States, from cotton, which, thirty years ago, was scarce known there! Something new is always turning up, and we should be on the alert, to avail ourselves of it.

The society has heretofore given admonition of the necessity of change in seed-grain. I do not mean merely the change of one grain for another of a different kind, (as *wheat* for *rye*, &c.) but a change of seed where there is no change of kind. Farmers do not seem aware of this necessity, nor of the great advantage of procuring seed of the very best kind, and cleaning it in the most perfect manner. Or if they are aware, they are deterred from paying attention to it, by a little trouble and a little expense. It would be well to keep the subject before their eyes, until a conviction of its importance shall produce an alteration of practice.

The importation of foreign animals is not to be neglected. It is not the business of this Society, nor have they the means of importing them;—but they may point them out. We have, in Pennsylvania, good horses; but in the best breeds of cattle, hogs and

sheep, we are defective. I know that some enterprising gentlemen in the city, have gone to great expense in importing cattle, and others are in possession of excellent breeds of hogs, but they are not yet diffused throughout the State. It is understood, that in the eastern States no pains or expense have been spared, in procuring animals of the finest shape and quality. But it may be some time, before they have a surplus for exportation.

We are well situated for obtaining models of all newly invented implements of husbandry. Our workmen are ingenious, and able to execute any thing which is planned for them; and the genius of our countrymen in the application of the mechanic powers, is conspicuous. The high price of labour, renders its abridgement of primary importance. What wonderful effects have been produced by Whitney's cotton gin? We are well supplied with implements for breaking the earth, and for cutting all kinds of straw, and cheap machines for shelling Indian corn. But a machine effectual for the threshing of wheat, and not too high-priced, is a desideratum. The machine for dressing flax, of British invention, is said to be a very great improvement, but is not yet much in use among us.

Roads, bridges, canals, and all internal public improvements, are subjects, which though not within

our control, have such an immediate bearing on Agriculture, by expediting and cheapening carriage, that it will be always proper to do what little is in our power, for their success. Works of such magnitude are not to be executed, without the combined exertions of many persons, sanctioned by the authority of the legislature, and assisted by the public purse. Our legislature has done nobly for roads and bridges, and we trust it will do the same for canals. The first great object of that kind, is the junction of the waters of the Susquehanna and the Schuylkill, which empties into the Delaware. That being accomplished, we may look westward to the waters of the Alleghany, and northward to the Seneca lake, which being once entered, and entered it may be with no great difficulty, we have the Delaware connected with the great northern lakes, by means of the magnificent work now in rapid progress, in the State of New-York. The project is grand;—I may not live to see it executed, yet it is by no means so improbable as many things once appeared, which in my time have been accomplished.

Yet, it must be confessed, that in canals, we linger behind other States, who have boldly led the way. Except the works now carrying on, for the improvement of the navigation on the Schuylkill and the Lehigh, we have nothing to show but the Conewago

canal of a single mile, which will be of little use, unless the Susquehanna and Delaware are united. Our tardiness may be accounted for. Five and twenty years ago, when the Conewago canal was begun, public spirit mounted perhaps too high. Great efforts were made, which from causes not necessary now to mention, proved abortive.—Hence, a despondence on the subject of canals, from which we have scarce yet recovered. But it is high time to rouse ourselves. On the one side we have New-York making great and successful exertions; on the other, Maryland, endeavouring to avail herself of the road, made at the expense of the United States, from Cumberland, on the Potowmac, to Wheeling, on the Ohio; on which waggons travel free from toll. But if we can have water carriage from Philadelphia to Susquehanna, we shall be on a better footing than Baltimore; and preserve our wagon carriage to Pittsburgh until the Susquehanna shall be joined to the Alleghany. This wagon carriage is of immense importance. It has been supposed, that between Philadelphia and Pittsburg, the yearly sum paid for carriage, amounted to 730,000 dollars. Nor is this the only consideration. A very great sum is expended all along the line of the turnpike road, which is diffused through the country to a considerable distance. A six horse wagon consumes five bushels of oats a day, besides

hay. Now, it appears from an official return, made by the keeper of the turnpike gate, at the Chesnut Ridge, between Stoys Town, and Greensburg, that there passed through that gate, during the year ending May, 1818; among other things, 281 four-horse, 2412 five-horse, and 2698 six-horse teams; and it is said, that a gentleman, living on the road near Pittsburg, in the year 1813, counted the number of wagons, laden with merchandise, which passed his house that year, and that they amounted 4055. Through the counties of Bedford and Somerset, the road being generally on ridges, runs through a poor country, to which the market afforded by the wagons, is essential. Somerset abounds in *grass;* and for *oats* is superior to any county in the state.—But the soil is not favourable to wheat; and, except in the southern part, Indian corn will scarce arrive at maturity. It appears, clearly, therefore, that the Agriculture of Pennsylvania is very much interested even in parts far west of the Susquehanna, in a water communication between that river and the Delaware, as the most effectual means of preserving the land carriage to Pittsburg. Another weighty consideration is, the protection which ought to be afforded to Pittsburg, against the effect of the United States' turnpike from Cumberland to Wheeling. Pittsburg ought to be to the western part of the state, what

Philadelphia is to the eastern: the reservoir of wealth sufficient to afford a market to the surrounding country. There is no rivalship between these cities. The prosperity of one promotes the prosperity of the other. Why then should we hesitate? New York has completed 120 miles of canal in less than two years and five months. By a line of less than half that length, the Delaware and Susquehanna are united.

Pennsylvania has been accused of want of attention to gardening, and I am afraid she must plead guilty to the charge. A good kitchen garden contributes much to the health, and even the elegance of life; the saving of meat makes it a source of economy, and the neatness which is necessary to keep it in order, may have an effect on the *manners* of the family. The females might execute a good deal of the work, and for their sake it should be interspersed with flowers. I believe my feelings are not at all singular, and I declare that I am struck with a sensation of pleasure, at the sight of a flourishing, well inclosed garden. May I be allowed to add that I have the same feelings, at the sight of a neat inclosure in front of the dwelling house, separating it from the highway. With surprise and regret, I perceive this often neglected, by wealthy and liberal farmers, merely because they have been in the habit of living without it. Such things might be remedied at a very tri-

fling expense, but they are of no trifling consequence. They have an influence on manners.

I say nothing on the subject of *hedges*, their importance, and the best mode of raising them have been fully shown by one of our Vice Presidents, on a former occasion.

The limits of this discourse confine me to *hints*, on subjects which merit *treatises*. May not means be taken to tincture the youthful mind, with the spirit of Agriculture? In *colleges*, natural philosophy and chemistry might sometimes be directed to that special purpose. But something may be done at an *earlier age;* particularly where opportunities are offered, in teaching the learned languages, which being acquired slowly and with difficulty, leave lasting impressions; for instance, besides the Georgics of Virgil, which are in general use, select passages might be read from Columella, one of the most ancient writers on rural affairs, which have reached us, in the Latin tongue. I am afraid mischief is done, by putting into the hands of boys, those finished models of Grecian and Roman eloquence, in which are painted, in too vivid colours, the pleasures of wine, and love, and the glory of war.

Having touched the subject of education, I will add, that when the benevolent intention of the constitution of Pennsylvania, shall be carried into effect, by

"the establishment of schools throughout the state, in such manner, that the poor may be taught gratis." Agriculture will reap her full share of the benefit. Reading, writing, and common arithmetic, if not essential, are very serviceable to the farmer. And even the labourer will derive incalculable advantage from the improvement of his intellectual faculties. Work cannot be continued without intermission, and time hangs heavy on the mind which is torpid during the hours of repose. Exercise is as necessary to the mind as the body. How desirable then, that men should be qualified for that kind of reading, which gratifies and strengthens the mind, without the fatigue of severe study, while the body is at rest during the intervals of labour? Our legislature is not unmindful of the duty imposed by the constitution—the act "to provide for the education of children at the public expense within the city and county of Philadelphia," is working great good. By the first annual report of the controllers of these schools, made in February last, it appears that 2,845 children were then in a course of education; and I am informed that the number is now much increased. Moreover, a most important fact is established—that by adopting the Lancasterian mode of teaching, which will do in all thickly settled districts, the annual expense will not exceed *four dollars* for each child. Upon efforts like

these the blessing of God may be confidently hoped for. Nothing can be more effectual for the diffusion of the spirit of Christianity, than a moderate cultivation of the understanding. Men will thus become more mild, better content with the condition in which Providence has placed them, more attentive to their duties both moral and religious, more charitable towards each other, less jealous and vindictive in their feelings towards foreign nations, less prone to rapine, under whatever name disguised, and less easily dazzled by the false splendour of war. But I must indulge myself on this topic no longer, lest it seduce me from my main design.

Closely connected with Agriculture is the subject of leases. Though not so important in the United States, as in other countries, because the body of tenantry is smaller here, yet it is not undeserving of attention. The leases generally in use, are for a short term, with a reservation, by way of rent, of a certain share of the produce of the land. This system is liable to two great objections. The shortness of the tenure, precludes all hope of improvement of the soil, and the mode of payment, (the rendering a share of the crop,) holds out inducements to fraud, which few tenants are able to resist. When the landlord lives upon the estate, he has some chance of checking the tenant, by obtaining an accurate knowledge of the

amount of the crop; and if he is liberal, he may have something done in the way of improvement. But where he lives at a distance, the probability is, that the estate will go to ruin, while he receives but a small part of his due. The objections to long leases, for rents in money, are, that if the landlord parts with the possession for a long time, he may be injured by a bad tenant; that he precludes himself from the chance of a sale, if a good price should be offered, and that the great fluctuations in the price of grain, make it impossible to fix a rent in money, without danger to both parties. Where a man has it in view to sell his estate, he may be right in making a short lease; that case forms an exception to the general rule. But where he means to keep it, the objection is removed; then, as to fluctuation of price, the matter might be easily managed, by reserving a rent of a certain quantity of grain, giving the tenant an election to pay the market price in money, which might be more convenient than delivering the grain. That point being settled, a lease for a longer term, fixing the rotation in which the fields should be cultivated, with other proper covenants, would leave the landlord sufficiently protected, while it gave the tenant encouragement to meliorate the soil for his own interest. At the end of such a lease, the value of the estate would be increased, and the rent might be raised. With great

deference I submit these remarks to gentlemen of the city, who have farms at some distance, or even in the neighbourhood, which are intended as a provision for their families.

One thing more remains, which I cannot in conscience pass by, and in which, perhaps the Society may find means to do some good. Can no method be devised to check the inordinate use of spirituous liquors? This shocking habit strikes at the root of agriculture, by robbing it of the labour necessary for its support. It would be a waste of time, to enumerate the ills which flow from this disgraceful vice, because they are obvious to every one. Perhaps a small addition to the wages, would induce labourers to forego the use of this poisonous liquid; or they might consent to take as a substitute, beer, or cider, or some other harmless drink. The subject deserves the deepest consideration, and I cannot help hoping, that when Societies shall be organized in the several counties, a plan may be formed, which being acted upon at once, throughout the state, may greatly lessen, if not eradicate the evil.

I have endeavoured, gentlemen, to obey your commands, in hopes that my example may call forth the efforts of others, better qualified to do justice to the subject.

THE END.